

PENNSYLVANIA BULLETIN

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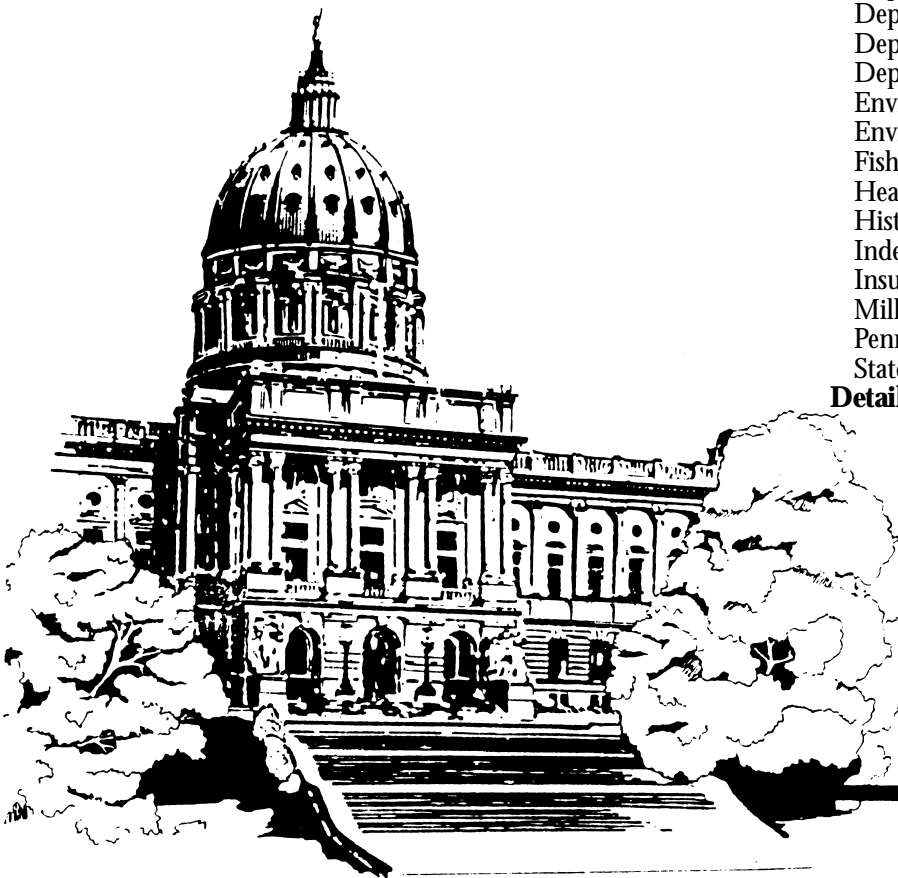
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Pennsylvania Bulletin

The *Pennsylvania Bulletin* is the official gazette of the Commonwealth of Pennsylvania. It is published every week and includes a table of contents. A cumulative subject matter index is published quarterly.

The *Pennsylvania Bulletin* serves several purposes. First, it is the temporary supplement to the *Pennsylvania Code*, which is the official codification of agency rules and regulations and other statutorily authorized documents. Changes in the codified text, whether by adoption, amendment, repeal or emergency action must be published in the *Pennsylvania Bulletin*. Further, agencies proposing changes to the codified text do so in the *Pennsylvania Bulletin*.

Second, the *Pennsylvania Bulletin* also publishes: Governor's Executive Orders; State Contract Notices; Summaries of Enacted Statutes; Statewide and Local Court Rules; Attorney General Opinions; Motor Carrier Applications before the Public Utility Commission; Applications and Actions before the Department of Environmental Protection; Orders of the Independent Regulatory Review Commission; and other documents authorized by law.

The text of certain documents published in the *Pennsylvania Bulletin* is the only valid and enforceable text. Courts are required to take judicial notice of the *Pennsylvania Bulletin*.

Adoption, Amendment or Repeal of Regulations

Generally an agency wishing to adopt, amend or repeal regulations must first publish in the *Pennsylvania Bulletin* a Notice of Proposed Rulemaking. There are limited instances where the agency may omit the proposal step; they still must publish the adopted version.

The Notice of Proposed Rulemaking contains the full text of the change, the agency contact person, a fiscal note required by law and background for the action.

The agency then allows sufficient time for public comment before taking final action. An adopted proposal must be published in the *Pennsylvania*

Bulletin before it can take effect. If the agency wishes to adopt changes to the Notice of Proposed Rulemaking to enlarge the scope, they must re-propose.

Citation to the *Pennsylvania Bulletin*

Cite material in the *Pennsylvania Bulletin* by volume number and page number. Example: Volume 1, *Pennsylvania Bulletin*, page 801 (short form: 1 Pa.B. 801).

Pennsylvania Code

The *Pennsylvania Code* is the official codification of rules and regulations issued by Commonwealth agencies and other statutorily authorized documents. The *Pennsylvania Bulletin* is the temporary supplement to the *Pennsylvania Code*, printing changes as soon as they occur. These changes are then permanently codified by the *Pennsylvania Code Reporter*, a monthly, loose-leaf supplement.

The *Pennsylvania Code* is cited by title number and section number. Example: Title 10 *Pennsylvania Code*, § 1.1 (short form: 10 Pa.Code § 1.1).

Under the *Pennsylvania Code* codification system, each regulation is assigned a unique number by title and section. Titles roughly parallel the organization of Commonwealth government. Title 1 *Pennsylvania Code* lists every agency and its corresponding *Code* title location.

How to Find Documents

Search for your area of interest in the *Pennsylvania Code*.

The *Pennsylvania Code* contains, as Finding Aids, subject indexes for the complete *Code* and for each individual title, a list of Statutes Used As Authority for Adopting Rules and a list of annotated cases. Source Notes give you the history of the documents. To see if there have been recent changes, not yet codified, check the List of *Pennsylvania Code* Chapters Affected in the most recent issue of the *Pennsylvania Bulletin*.

The *Pennsylvania Bulletin* also publishes a quarterly List of Pennsylvania Code Sections Affected which lists the regulations in numerical order, followed by the citation to the *Pennsylvania Bulletin* in which the change occurred.

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Printing Format

Material proposed to be added to an existing rule or regulation is printed in **bold face** and material proposed to be deleted from such a rule or regulation is enclosed in brackets [] and printed in **bold face**. Asterisks indicate ellipsis of *Pennsylvania Code* text retained without change. Proposed new or additional regulations are printed in ordinary style face.

Fiscal Notes

Section 612 of The Administrative Code of 1929 (71 P. S. § 232) requires that the Office of Budget prepare a fiscal note for regulatory actions and administrative procedures of the administrative departments, boards, commissions or authorities receiving money from the State Treasury stating whether the proposed action or procedure causes a loss of revenue or an increase in the cost of programs for the Commonwealth or its political subdivisions; that the fiscal note be published in the *Pennsylvania Bulletin* at the same time as the proposed change is advertised; and that the fiscal note shall provide the following information: (1) the designation of the fund out of which the appropriation providing for expenditures under the action or procedure shall be made; (2) the probable cost for the fiscal year the program is implemented; (3) projected cost estimate of the program for each of the five succeeding fiscal years; (4) fiscal history of the program for which expenditures are to be made; (5) probable loss of revenue for the fiscal year of its implementation; (6) projected loss of revenue from the program for each of the five succeeding fiscal years; (7) line item, if any, of the General Appropriation Act or other appropriation act out of which expenditures or losses of Commonwealth funds shall occur as a result of the action or procedures; (8) recommendation, if any, of the Secretary of the Budget and the reasons therefor.

The required information is published in the foregoing order immediately following the proposed change to which it relates; the omission of an item indicates that the agency text of the fiscal note states that there is no information available with respect thereto. In items (3) and (6) information is set forth for the first through fifth fiscal years; in that order, following the year the program is implemented, which is stated. In item (4) information is set forth for the current and two immediately preceding years, in that order. In item (8) the recommendation, if any, made by the Secretary of Budget is published with the fiscal note. See 4 Pa. Code § 7.231 *et seq.* Where “no fiscal impact” is published, the statement means no additional cost or revenue loss to the Commonwealth or its local political subdivision is intended.

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List of Pa. Code Chapters Affected

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THE COURTS

Title 249—PHILADELPHIA RULES

PHILADELPHIA COUNTY

Bail Bonds Posted by Professional Bondsmen; Joint General Court Regulation No. 2006-02

The Judicial Code, 42 Pa.C.S. § 5741, et seq., sets forth the requirements for obtaining a Professional Bondsman license in the Commonwealth of Pennsylvania, a prerequisite for permitting qualified individuals to post bail for criminal defendants awaiting trial. The Pennsylvania Rules of Criminal Procedure authorize the local courts to impose additional requirements on sureties. See Pa.R.Crim.P. 531(A). This Regulation sets forth the additional requirements imposed by the First Judicial District on Professional Bondsmen licensed under the Judicial Code.

1. *Applicability.* This Regulation applies only to Professional Bondsmen licensed under the Judicial Code, 42 Pa.C.S. § 5741, et seq., and not to any of the other sureties identified in Pa.R.Crim.P. 531.

2. *Definitions.* For purposes of this Regulation:

(A) A "Professional Bondsman" is "any person, other than a fidelity or surety company or any officers, agents, attorneys, or employees, authorized to execute bail bonds or to solicit business on its behalf, who: (1) engages in the business of giving bail, giving or soliciting undertakings or giving or soliciting indemnity or counter-indemnity to sureties on undertakings; or (2) within a period of 30 days has become a surety, or has indemnified a surety, for the release on bail of a person, with or without a fee or compensation, or promise thereof, in three or more matters not arising out of the same transaction." 42 Pa.C.S. § 5741.

(B) A "bail enforcement agent" is an individual who performs services or takes action for the purpose of enforcing the terms and conditions of a defendant's release from custody on bail in a criminal proceeding, including locating, apprehending and surrendering a defendant released from custody on bail who has failed to appear at a specified time and place pursuant to court order. The term does not include police officers, sheriffs, court officers or law enforcement personnel who execute warrants of arrest for bail forfeitures pursuant to their official duties.

3. *Requirements.*

(A) To become qualified to post bond in the First Judicial District, the Professional Bondsman must:

(1) obtain a valid Professional Bondsman license issued by the Pennsylvania Department of Insurance, pursuant to 42 Pa.C.S. § 5741, et seq. The Professional Bondsman must at all times be in full compliance with 42 Pa.C.S. § 5741, et seq.

(2) present satisfactory proof that he or she maintains an office in Philadelphia County from which his or her business is conducted and where service of notices may be made. Every Professional Bondsman must maintain at his or her office in Philadelphia County the usual and customary records pertaining to transactions authorized by the Professional Bondsman's license, including, but not

limited to, such records of bail bonds executed or countersigned by the Professional Bondsman to enable the court to obtain all necessary information concerning such bail bonds for at least 3 years after all liability on such bail bonds has been terminated. Such records must be open at all times to examination, inspection, and copying by the court or its representative, and the court may at any time require the Professional Bondsman to furnish, in such manner or form as the court requires, any information concerning the bail bond business of the Professional Bondsman.

(3) certify that neither the Professional Bondsman, nor his or her employees or agents, have been convicted of any criminal offense. The certification must be based on a criminal history search conducted by the Pennsylvania State Police for the Professional Bondsman and each employee or agent of the Professional Bondsman, and a copy of the search results must be attached to a list of all of the Professional Bondsman's employees or agents and submitted with the Petition required by Section 4 of this Regulation. Conviction of the Professional Bondsman, or any of his or her employees or agents, will render the Professional Bondsman ineligible to conduct business in the First Judicial District;

(4) post with the Prothonotary as security the minimum sum of \$250,000 in United States currency or unencumbered securities of the United States Government, which will entitle the Professional Bondsman to post bond in the aggregate sum of \$1,000,000, and by further posting the sum required for each individual bond or undertaking with the bail authority. Provided, however, that the Professional Bondsman must post additional security with the Prothonotary in the event the Professional Bondsman intends to post bond in excess of \$1,000,000. The additional security to be posted with the Prothonotary shall be in units of \$250,000 which will entitle the Professional Bondsman to post bond in the additional sum of \$1,000,000 per \$250,000 unit;

(5) provide a financial statement certified by a Certified Public Accountant which verifies that the Professional Bondsman has sufficient assets to satisfy all bail obligations undertaken by the Professional Bondsman in the First Judicial District and in other jurisdictions in which the Professional Bondsman conducts business. A current certified statement must be filed with the Petition required in Section 4 of this Regulation;

(6) certify that only the person who is granted a Professional Bondsman license by the Department of Insurance shall post bail for criminal defendants, in the name exactly as it appears on the Professional Bondsman license, and not in the name of any business entity with which the licensed Professional Bondsman may be associated, nor in the name of any agent, associate or employee of the licensed Professional Bondsman;

(7) provide to the First Judicial District a schedule of the fees to be charged criminal defendants for issuing the bail bond. Such fees may not change unless notice is given to the First Judicial District at least thirty days prior to the effective date of the proposed revised fees;

(8) certify full compliance with the training and education requirements set forth in Section 6 of this Regulation;

(9) upon approval of the Petition required in Section 4 of this Regulation, register with the First Judicial District and pay to the Prothonotary an initial registration fee of \$600, or such amount as may be established from time to time by the Court Administrator of the First Judicial District;

(10) certify that neither the Professional Bondsman, nor the Professional Bondsman's agents and employees, will represent or identify themselves, directly or indirectly, as employees or agents of the Commonwealth of Pennsylvania or First Judicial District. The Professional Bondsman, and the agents and employees of the Professional Bondsman, must not wear clothing or present badges or any other form of law enforcement credentials that create the impression of employment by the Commonwealth of Pennsylvania, the First Judicial District or any of its units, including the Pretrial Services Unit or the Warrant Unit of the First Judicial District;

(11) fully comply with all laws, regulations, rules of court and procedures as may be established from time to time.

(B) To remain qualified to post bond in the First Judicial District, the Professional Bondsman must:

(1) maintain compliance with the requirements specified in Section 3(A) of this Regulation;

(2) provide quarterly statements certified by the Professional Bondsman that he or she is in compliance with the security posting requirements specified in Section 3(A)(4) of this Regulation;

(3) provide on a quarterly basis, or as often as requested by the Common Pleas Court President Judge, Municipal Court President Judge and Administrative Judge of the Trial Division, a financial statement certified by a Certified Public Accountant which verifies that the Professional Bondsman has sufficient assets to satisfy all bail obligations undertaken by the Professional Bondsman in the First Judicial District and in other jurisdictions in which the Professional Bondsman conducts business;

(4) satisfy in full any judgment entered against a defendant, or the Professional Bondsman, for a defendant's violation of the bail bond within thirty (30) days of the issuance of the judgment. In the event the Professional Bondsman fails to do so, the judgment shall be satisfied from the funds posted with the Prothonotary pursuant to Section 3(A)(4) of this Regulation. In that event, the Professional Bondsman shall be prohibited from posting additional bail until such time as all judgments entered against the Professional Bondsman are satisfied in full;

(5) immediately notify, in writing, the Common Pleas Court President Judge, Municipal Court President Judge and Administrative Judge of the Trial Division if the Professional Bondsman, or any of his or her employees or agents, has been charged with any criminal offense, or if his or her Professional Bondsman license has been revoked, suspended or not renewed in the Commonwealth of Pennsylvania or any other jurisdiction;

(6) not post bonds if the aggregate maximum amount of unsettled and outstanding bail forfeitures, as determined by the Court Administrator of the First Judicial District, or the Court Administrator's designee, equals or exceeds \$250,000. The Court Administrator of the First Judicial District, or the Court Administrator's designee, shall promptly notify the Common Pleas Court President Judge, Municipal Court President Judge, the Administra-

tive Judge of the Trial Division, the Municipal Court Bail Commissioners, the Philadelphia District Attorney and the applicable bondsman of any Professional Bondsman having reached this maximum limit. Immediately upon notification, no further bonds by the Professional Bondsman are authorized or acceptable for posting. When full financial settlement has been made of the outstanding bail forfeitures, the Court Administrator of the First Judicial District, or the Court Administrator's designee, shall promptly notify the Common Pleas Court President Judge, Municipal Court President Judge, the Administrative Judge of the Trial Division, the Municipal Court Bail Commissioners, the Philadelphia District Attorney and the applicable bondsman that posting of bonds by the Professional Bondsman may resume;

(7) not represent or identify himself or herself, or agents and employees of the Professional Bondsman, directly or indirectly, as employees or agents of the Commonwealth of Pennsylvania or First Judicial District. The Professional Bondsman and his or her agents and employees must not wear clothing or present badges or any other form of law enforcement credentials that create the impression of employment by the Commonwealth of Pennsylvania, the First Judicial District or any of its units, including the Pretrial Services Unit or the Warrant Unit of the First Judicial District;

(8) certify continued full compliance with the training and education requirements set forth in Section 6 of this Regulation;

(9) annually renew his or her registration with the First Judicial District, provide all certifications required by this Regulation, and pay to the Prothonotary an annual renewal registration fee of \$600, or such amount as may be established from time to time by the Court Administrator of the First Judicial District;

(10) fully comply with all laws, regulations, rules of court and procedures as may be established from time to time.

4. Process to be Utilized in Seeking Approval as a Professional Bondsman. Any person who has obtained a Professional Bondsman license from the Pennsylvania Department of Insurance may seek approval to post bail in the First Judicial District by filing a Petition with the Prothonotary. The Petition must provide the information, documents and certifications set forth in Section 3(A) of this Regulation. Upon filing, the Petition will be assigned to the Common Pleas Court President Judge, Municipal Court President Judge and Administrative Judge of the Trial Division for determination.

5. Opportunity to Be Heard. A Professional Bondsman whose Petition seeking approval to post bail in the First Judicial District is denied will be provided an opportunity to be heard and to contest the denial. Any Professional Bondsman seeking to contest the denial of its Petition for approval to post bail in the First Judicial District must file a Petition with the Prothonotary within thirty (30) days of the date of denial of the initial Petition, and set forth the relief requested and the factual basis therefor. Similarly, a Professional Bondsman who has received approval to post bail in the First Judicial District as provided in this Regulation, but who has been prohibited from posting additional bail, or is otherwise ineligible to post bail in the First Judicial District, will be provided an opportunity to be heard. Any Professional Bondsman seeking to contest his or her prohibition from posting additional bail in the First Judicial District, or any other ineligibility subsequent to his or her initial approval

hereunder, must file a Petition with the Prothonotary within thirty (30) days of the date of the prohibition, or determination of ineligibility, and set forth the relief requested and the factual basis therefor.

6. *Training and Continuing Education.*

(A) To register as a Professional Bondsman desiring to post bail in the First Judicial District, the Professional Bondsman must certify that he or she has satisfactorily completed not less than thirty (30) hours of education in subjects pertinent to the duties and responsibilities of bail bondsmen, including, but not limited to, all laws and regulations relating thereto, the criminal justice system, rights of the accused, bail bond industry ethics, prohibited conduct and apprehension of bail fugitives. Additionally, a Professional Bondsman desiring to post bail in the First Judicial District must certify that he or she has satisfactorily completed not less than eight (8) hours of continuing education in these subjects during the year preceding any renewal of his or her registration in the First Judicial District.

(B)(1) If a Professional Bondsman, or any agent or employee of the Professional Bondsman, uses the services of a bail enforcement agent, the Professional Bondsman must receive from such bail enforcement agent, prior to the Professional Bondsman's utilization of such services, proof that the bail enforcement agent has satisfactorily completed a basic course of training and the continuing education requirements set forth below.

(2) The basic course of training must consist of at least forty-five (45) hours of training which includes instruction in:

- (a) The following areas of the law:
 - (i) Constitutional law;
 - (ii) Procedures for arresting defendants and surrendering defendants into custody;
 - (iii) Civil liability;
 - (iv) The civil rights of persons who are detained in custody;
 - (v) The use of force; and
 - (vi) The history and principles of bail;
- (b) Procedures for field operations, including, without limitation:
 - (i) Safety and survival techniques;
 - (ii) Searching buildings;
 - (iii) Handling persons who are mentally ill or under the influence of alcohol or a controlled substance; and
 - (iv) The care and custody of prisoners;
- (c) The skills required of bail enforcement agents, including, without limitation:
 - (i) Writing reports, completing forms and procedures for exoneration;
 - (ii) Methods of arrest;
 - (iii) Nonlethal weapons;
 - (iv) Qualifications for the use of firearms; and
 - (v) Defensive tactics;
- (d) Principles of investigation, including, without limitation:

(i) The basic principles of locating defendants who have not complied with the terms and conditions established by a court for their release from custody or the terms and conditions of a contract entered into with a surety; and

(ii) Ethics; and

(e) The following subjects:

(i) Courtroom demeanor;

(ii) Emergency first aid; and

(iii) Cardiopulmonary resuscitation.

(3) Additionally, a bail enforcement agent must satisfactorily complete not less than twelve (12) hours of continuing education in the above-specified subjects within the year prior to the utilization of his or her services by the Professional Bondsman.

(C) All such training and education shall be provided by individuals or entities acceptable to the Common Pleas Court President Judge, Municipal Court President Judge and Administrative Judge of the Trial Division.

7. *Bail Piece Procedure.* Whenever a bail piece is issued pursuant to Pa.R.Crim.P. 536 and the defendant is apprehended by or on behalf of a Professional Bondsman, the defendant must be brought to such office or before such person as the First Judicial District may from time to time designate.

8. *Prohibited Conduct.* Persons in the bail bond business, including a Professional Bondsman, may not engage in prohibited conduct, which includes the violation of any applicable statute, rule, order or regulation, or the commission of any of the following acts by a Professional Bondsman, agents and employees of a Professional Bondsman, or bail bond enforcement agents working for or on behalf of a Professional Bondsman:

(A) having a license or authorization to act as a Professional Bondsman revoked in this or any other state;

(B) misstating or misrepresenting any material fact in the initial Petition required by this Regulation, or in any of the statements, information or certifications required by this Regulation;

(C) being involved in any transaction which show unfitness to act in a fiduciary capacity or a failure to maintain the standards of fairness and honesty required of a fiduciary;

(D) being convicted of any criminal offense;

(E) failing to promptly advise the Common Pleas Court President Judge, Municipal Court President Judge, Administrative Judge of the Trial Division and Court Administrator of the First Judicial District of any change in circumstances which would materially affect any of the statements, information or certifications required by this Regulation;

(F) failing to preserve, and to retain separately, any collateral obtained as security on any bond;

(G) failing to return collateral taken as security on any bond to the depositor of such collateral, or the depositor's designee, within ten (10) business days of having been notified of the exoneration of the bond and upon payment of all fees owed to the Professional Bondsman, whichever is later;

(H) offering or providing any consideration or gratuity to any person employed by, or incarcerated in, a jail facility, any person who has the power to arrest or to hold any person in custody, or to any court officers and attorneys to obtain or secure business;

(I) failing to deliver to the defendant, and any person providing collateral on the defendant's behalf, prior to the time the defendant is released from jail, a one-page disclosure form which, at a minimum, must include:

- (i) the amount of the bail;
 - (ii) the amount of the Professional Bondsman's fee, including bail bond premium, preparation fees, and credit transaction fees;
 - (iii) the collateral that will be held by the Professional Bondsman;
 - (iv) the defendant's obligations to the Professional Bondsman and the court;
 - (v) the conditions upon which the bond may be revoked;
 - (vi) any additional charges or interest that may accrue;
 - (vii) any co-signors or indemnitors that will be required; and
 - (viii) the conditions under which the bond may be exonerated and the collateral returned;
- (J) failing to provide the Pretrial Services Unit of the First Judicial District the fully executed one-page disclosure form required by Section 8(I) of this Regulation at the time bond is posted;
- (K) using a bail enforcement agent who has failed to comply with any of the requirements of this Regulation;
- (L) charging excessive fees or other unauthorized charges;
- (M) requiring unreasonable collateral as security;
- (N) failing to provide an itemized statement of any and all expenses deducted from collateral, if any;
- (O) advising, requiring or suggesting that, as a condition of posting a bail bond by the Professional Bondsman, a defendant engage the services of a particular law firm or attorney;
- (P) preparing or issuing a fraudulent or forged bail bond, power of attorney or other document;
- (Q) signing, executing, issuing or posting bail bonds by an unlicensed person;
- (R) knowingly violating, advising, encouraging, aiding, abetting or assisting the violation of any applicable statute, court order, rule or regulation;
- (S) soliciting or procuring sexual favors as a condition of obtaining, maintaining or exonerating a bail bond, regardless of the identity of the person who performs such favors; and
- (T) providing legal advice or a legal opinion in any form.

This Regulation is issued in accordance with Pa.R.Crim.P. 536 and will become effective thirty (30) days after the date of its publication in the *Pennsylvania Bulletin*. As required by Pa.R.Crim.P. 105, the original Regulation will be filed with the Prothonotary in a Docket maintained for General Court Regulations issued by the First Judicial District of Pennsylvania, and copies will be submitted to the Administrative Office of Pennsylvania Courts, the Legislative Reference Bureau and the Criminal Procedural Rules Committee. Copies of the Regulation will also be submitted to American Lawyer Media, *The*

Legal Intelligencer, Jenkins Memorial Law Library, and the law library for the First Judicial District. The Regulation will also be posted on the First Judicial District's website at <http://courts.phila.gov>.

C. DARNELL JONES, II,
President Judge,
Court of Common Pleas

LOUIS J. PRESENZA,
President Judge,
Municipal Court

JAMES J. FITZGERALD, III,
Administrative Judge, Trial Division,
Court of Common Pleas

[Pa.B. Doc. No. 06-651. Filed for public inspection April 21, 2006, 9:00 a.m.]

PHILADELPHIA COUNTY

Bail Bonds Posted by Corporate Sureties and Their Agents; Joint General Court Regulation No. 2006-03

Pennsylvania Rule of Criminal Procedure 528(D)(5) recognizes the surety bond of a surety company authorized to do business in the Commonwealth of Pennsylvania as an acceptable form of security to satisfy the full amount of the monetary condition of a defendant's release on bail. Rule 531 of the Pennsylvania Rules of Criminal Procedure permits, by local rule of court, additional requirements to be imposed on surety companies approved by the court. This Regulation sets forth the additional requirements imposed by the First Judicial District on corporate sureties and their agents.

1. *Applicability.* This Regulation applies to any corporate surety and its agents seeking to post a bond in satisfaction of the full amount of the monetary condition of a defendant's release on bail.

2. *Definitions.* For purposes of this Regulation:

(A) A "corporate surety" is any corporation, limited liability corporation or partnership which engages in the business of providing bail, providing or soliciting bail undertakings, or providing or soliciting indemnity or counter-indemnity to others on bail undertakings.

(B) A "bail enforcement agent" is an individual who performs services or takes action for the purpose of enforcing the terms and conditions of a defendant's release from custody on bail in a criminal proceeding, including locating, apprehending and surrendering a defendant released from custody on bail who has failed to appear at a specified time and place pursuant to court order. The term does not include police officers, sheriffs, court officers or law enforcement personnel who execute warrants of arrest for bail forfeitures pursuant to their official duties.

3. *Requirements.*

(A) To become qualified to act as a corporate surety, or agent thereof, with respect to the posting of bail bonds in the First Judicial District, a corporate surety and its agents must:

(1) present satisfactory proof that the corporate surety is licensed by the Pennsylvania Department of Insurance to do business in the Commonwealth of Pennsylvania;

(2) present satisfactory proof of the agency relationship between the corporate surety and its agent(s). The execution of any bail bond by such agent(s) shall be a valid and binding obligation of the corporate surety;

(3) present satisfactory proof that any agent designated to act on behalf of the corporate surety is duly licensed by the Pennsylvania Department of Insurance;

(4) present satisfactory proof that the corporate surety maintains an office in Philadelphia County from which its business is conducted, pursuant to 42 Pa.C.S. § 5744, and where service of notices may be made. Every corporate surety shall keep at its office in Philadelphia County the usual and customary records pertaining to transactions authorized by its license and/or the license of any of its agents, including, but not limited to, such records of bail bonds executed or countersigned by the corporate surety to enable the court to obtain all necessary information concerning such bail bonds for at least 3 years after the liability of the surety has been terminated. Such records must be open at all times to examination, inspection, and copying by the court or its representative, and the court may at any time require the corporate surety to furnish it, in such manner or form as the court requires, any information concerning the bail bond business of the corporate surety;

(5) certify that neither the corporate surety, nor its employees or agents, have been convicted of any criminal offense. The certification must be based on a criminal history search conducted by the Pennsylvania State Police for each employee or agent, and a copy of the search results must be attached to the list of employees or agents and certification submitted with the Petition required by Section 4 of this Regulation. Conviction of a corporate surety, or any of its employees or agents, will render the corporate surety ineligible to conduct business in the First Judicial District;

(6) post with the Prothonotary as security the minimum sum of \$250,000 in United States currency or unencumbered securities of the United States Government, which will entitle the corporate surety to post bond in the aggregate sum of \$1,000,000, and by further posting the sum required for each individual bond or undertaking with the bail authority. Provided, however, that the corporate surety must post additional security with the Prothonotary in the event the corporate surety intends to post bond in excess of \$1,000,000. The additional security to be posted with the Prothonotary must be in units of \$250,000 which will entitle the corporate surety to post bond in the additional sum of \$1,000,000 per \$250,000 unit;

(7) provide a financial statement certified by a Certified Public Accountant which verifies that the corporate surety has sufficient assets to satisfy all bail obligations undertaken by or on behalf of the corporate surety in the First Judicial District and in other jurisdictions in which the corporate surety conducts business. A current certified statement must be filed with the Petition required in Section 4 of this Regulation;

(8) certify that only the corporate surety, which is approved by the President Judge of the Court of Common Pleas upon Petition as provided in this Regulation, may post bail for criminal defendants, in the name exactly as it appears on the surety's license, and not in the name of any agent or other business entity;

(9) provide to the First Judicial District a schedule of the fees to be charged criminal defendants for issuing the bail bond. Such fees may not change unless notice is

given to the First Judicial District at least thirty days prior to the effective date of the proposed revised fees;

(10) certify full compliance with the training and education requirements set forth in Section 6 of this Regulation;

(11) upon approval of the Petition required in Section 4 of this Regulation, register with the First Judicial District and pay to the Prothonotary an initial registration fee of \$600, or such amount as may be established from time to time by the Court Administrator of the First Judicial District;

(12) certify that neither the corporate surety nor any agent or employee of such surety, will represent itself, directly or indirectly, as an employee or agent of the Commonwealth of Pennsylvania or First Judicial District. The employees and agents of the corporate surety must not wear clothing or present badges or any other form of law enforcement credentials that create the impression of employment of the Commonwealth of Pennsylvania, the First Judicial District or any of its units, including the Pretrial Services Unit or the Warrant Unit of the First Judicial District;

(13) fully comply with all laws, regulations, rules of court and procedures as may be established from time to time.

(B) To remain qualified to post bond in the First Judicial District, the corporate surety and its agents must:

(1) maintain compliance with the requirements specified in Section 3(A) of this Regulation;

(2) provide quarterly statements certified by the corporate surety that it is in compliance with the security posting requirements specified in Section 3(A)(6) of this Regulation;

(3) provide, on a quarterly basis, or as often as requested by the Common Pleas Court President Judge, Municipal Court President Judge and Administrative Judge of the Trial Division, a financial statement certified by a Certified Public Accountant which verifies that the corporate surety has sufficient assets to satisfy all bail obligations undertaken by the corporate surety and all agents acting on its behalf in the First Judicial District and in other jurisdictions in which the corporate surety conducts business;

(4) satisfy in full any judgment entered against a defendant, or the corporate surety, for a defendant's violation of a bail bond, within thirty (30) days of the issuance of the judgment. In the event the corporate surety fails to satisfy such judgment, the judgment will be satisfied from the funds posted with the Prothonotary pursuant to Section 3(A)(6) of this Regulation. In that event, the corporate surety will be prohibited from posting additional bail until such time as all judgments entered against the corporate surety are satisfied in full;

(5) immediately notify, in writing, the Common Pleas Court President Judge, Municipal Court President Judge and Administrative Judge of the Trial Division if the corporate surety, or any of its employees or agents, has been charged with any criminal offense, or if its license or the license of any of its agents has been revoked, suspended or not renewed in the Commonwealth of Pennsylvania or any other jurisdiction;

(6) not post bonds if the aggregate maximum amount of unsettled and outstanding bail forfeitures, as determined by the Court Administrator of the First Judicial

District, or the Court Administrator's designee, equals or exceeds \$250,000. The Court Administrator of the First Judicial District, or the Court Administrator's designee, shall promptly notify the Common Pleas Court President Judge, Municipal Court President Judge, the Administrative Judge of the Trial Division, the Municipal Court Bail Commissioners, the Philadelphia District Attorney, and the applicable bondsman of any corporate surety having reached this maximum limit. Immediately upon notification, no further bonds by the corporate surety are authorized or acceptable for posting. When full financial settlement has been made of the outstanding bail forfeitures, the Court Administrator of the First Judicial District, or the Court Administrator's designee, shall promptly notify the Common Pleas Court President Judge, Municipal Court President Judge, the Administrative Judge of the Trial Division, the Municipal Court Bail Commissioners, the Philadelphia District Attorney, and the applicable bondsman that posting of bonds by the corporate surety may resume;

(7) not represent or identify itself, directly or indirectly, as employees or agents of the Commonwealth of Pennsylvania or First Judicial District. The employees and agents of the corporate surety must not wear clothing or present badges or any other form of law enforcement credentials that create the impression of employment by the Commonwealth of Pennsylvania, the First Judicial District or any of its units, including the Pretrial Services Unit or the Warrant Unit of the First Judicial District;

(8) certify continued full compliance with the training and education requirements set forth in Section 6 of this Regulation;

(9) annually renew their registration with the First Judicial District, provide all certifications required by this Regulation and pay to the Prothonotary an annual renewal registration fee of \$600, or such amount as may be established from time to time by the Court Administrator of the First Judicial District;

(10) fully comply with all laws, regulations, rules of court and procedures as may be established from time to time.

4. *Process to be Utilized in Seeking Approval as a Corporate Surety.* Any corporate surety which is licensed by the Pennsylvania Department of Insurance may seek approval to post bail in the First Judicial District by filing a Petition with the Prothonotary. The Petition must provide the information, documents and certifications set forth in Section 3(A) of this Regulation. Upon filing, the Petition will be assigned to the Common Pleas Court President Judge, Municipal Court President Judge and Administrative Judge of the Trial Division for determination.

5. *Opportunity to Be Heard.* A corporate surety whose Petition seeking approval to post bail in the First Judicial District is denied will be provided an opportunity to be heard and to contest the denial. Any corporate surety seeking to contest the denial of its Petition for approval to post bail in the First Judicial District must file a Petition with the Prothonotary within thirty (30) days of the date of denial of its initial Petition, and set forth the relief requested and the factual basis therefor. Similarly, a corporate surety which has received approval to post bail in the First Judicial District as provided in this Regulation, but which has been prohibited from posting additional bail, or is otherwise ineligible to post bail in the First Judicial District, will be provided an opportunity to be heard. Any corporate surety seeking to contest its

prohibition from posting additional bail in the First Judicial District, or any other ineligibility subsequent to its initial approval hereunder, must file a Petition with the Prothonotary within thirty (30) days of the date of the prohibition or determination of ineligibility, and set forth the relief requested and the factual basis therefor.

6. *Training and Continuing Education.*

(A) To register as a corporate surety desiring to post bail in the First Judicial District, the corporate surety must certify that all employees and agents who will write any bail on its behalf in the First Judicial District complete not less than thirty (30) hours of education in subjects pertinent to the duties and responsibilities of corporate sureties, including, but not limited to, all laws and regulations relating thereto, the criminal justice system, rights of the accused, bail bond industry ethics, prohibited conduct and apprehension of bail fugitives. Additionally, a corporate surety desiring to post bail in the First Judicial District must certify that all employees and agents who will write any bail on its behalf in the First Judicial District have satisfactorily completed not less than eight (8) hours of continuing education in these subjects during the year preceding any renewal of its registration in the First Judicial District.

(B)(1) If a corporate surety, or any of its agents or employees, uses the services of a bail enforcement agent, the corporate surety must receive from such bail enforcement agent, prior to the corporate surety's utilization of such services, proof that the bail enforcement agent has satisfactorily completed a basic course of training and the continuing education requirements set forth below.

(2) The basic course of training must consist of at least forty-five (45) hours of training which includes instruction in:

(a) The following areas of the law:

(i) Constitutional law;

(ii) Procedures for arresting defendants and surrendering defendants into custody;

(iii) Civil liability;

(iv) The civil rights of persons who are detained in custody;

(v) The use of force; and

(vi) The history and principles of bail;

(b) Procedures for field operations, including, without limitation:

(i) Safety and survival techniques;

(ii) Searching buildings;

(iii) Handling persons who are mentally ill or under the influence of alcohol or a controlled substance; and

(iv) The care and custody of prisoners;

(c) The skills required of bail enforcement agents, including, without limitation:

(i) Writing reports, completing forms and procedures for exoneration;

(ii) Methods of arrest;

(iii) Nonlethal weapons;

(iv) Qualifications for the use of firearms; and

(v) Defensive tactics;

(d) Principles of investigation, including, without limitation:

(i) The basic principles of locating defendants who have not complied with the terms and conditions established by a court for their release from custody or the terms and conditions of a contract entered into with a surety; and

(ii) Ethics; and

(e) The following subjects:

(i) Courtroom demeanor;

(ii) Emergency first aid; and

(iii) Cardiopulmonary resuscitation.

(3) Additionally, a bail enforcement agent must satisfactorily complete not less than twelve (12) hours of continuing education in the above-specified subjects within the year prior to the utilization of his or her services by the corporate surety or its agents.

(C) All such training and education shall be provided by individuals or entities acceptable to the Common Pleas Court President Judge, Municipal Court President Judge and Administrative Judge of the Trial Division.

7. *Bail Piece Procedure.* Whenever a bail piece is issued pursuant to Pa.R.Crim.P. 536 and the defendant is apprehended by or on behalf of the corporate surety or its agents, the defendant must be brought to such office or before such person as the First Judicial District may from time to time designate.

8. *Prohibited Conduct.* A corporate surety and its agents may not engage in prohibited conduct, which includes the violation of any applicable statute, rule, order or regulation, or the commission of any of the following acts by corporate sureties and/or their agents:

(A) having a license as a corporate surety, or agent thereof, revoked in this or any other state;

(B) being involved in any transaction which shows unfitness to act in a fiduciary capacity or a failure to maintain the standards of fairness and honesty required of a fiduciary;

(C) having any judgment entered which would reduce the surety's net worth below the minimum required for licensure;

(D) being convicted of any criminal offense;

(E) failing to promptly advise the Common Pleas Court President Judge, Municipal Court President Judge, Administrative Judge of the Trial Division and Court Administrator of the First Judicial District of any change in circumstances which would materially affect any of the statements, information or certifications required by this Regulation;

(F) using an unregistered agent to post bail or provide any bail undertaking on behalf of the corporate surety;

(G) using an individual or entity not contracted and appointed by the corporate surety to post bail or provide bail undertaking on behalf of the corporate surety;

(H) signing, executing or issuing bonds by a person or entity which is not registered as an agent of the corporate surety and/or for which there is no satisfactory proof of an agency relationship with the corporate surety;

(I) executing a bond without the appropriate counter signature by a licensed and/or authorized agent at time of issue;

(J) failing to account for or pay any premiums held in a fiduciary capacity;

(K) misstating or misrepresenting any material fact in the initial Petition required by this Regulation, or in any of the statements, information or certifications required by this Regulation;

(L) failing to preserve, and to retain separately, any collateral obtained as security on any bond;

(M) failing to return collateral taken as security on any bond to the depositor of such collateral, or the depositor's designee, within ten (10) business days of having been notified of the exoneration of the bond and upon payment of all fees owed to the corporate surety, whichever is later;

(N) offering or providing any consideration or gratuity to any person employed by, or incarcerated in, a jail facility, any person who has the power to arrest or to hold any person in custody, or to any court officers and attorneys to obtain or secure business;

(O) failing to deliver to the defendant, and any person providing collateral on the defendant's behalf, prior to the time the defendant is released from jail, a one-page disclosure form which, at a minimum, must include:

(i) the amount of the bail;

(ii) the amount of the surety's fee, including bail bond premium, preparation fees, and credit transaction fees;

(iii) the collateral that will be held by the surety;

(iv) the defendant's obligations to the surety and the court;

(v) the conditions upon which the bond may be revoked;

(vi) any additional charges or interest that may accrue;

(vii) any co-signors or indemnitors that will be required; and

(viii) the conditions under which the bond may be exonerated and the collateral returned;

(P) failing to provide the Pretrial Services Unit of the First Judicial District the fully executed one-page disclosure form required by Section 8(O) of this Regulation at the time bond is posted;

(Q) using a bail enforcement agent who has failed to comply with any of the requirements of this Regulation;

(R) charging excessive fees or other unauthorized charges;

(S) requiring unreasonable collateral as security;

(T) failing to provide an itemized statement of any and all expenses deducted from collateral, if any;

(U) advising, requiring or suggesting that, as a condition of posting a bail bond by a corporate surety, a defendant engage the services of a particular law firm or attorney;

(V) preparing or issuing a fraudulent or forged bail bond, power of attorney or other document;

(W) signing, executing, issuing or posting bail bonds by an unlicensed person;

(X) knowingly violating, advising, encouraging, aiding, abetting or assisting the violation of any applicable statute, court order, rule or regulation;

(Y) soliciting or procuring sexual favors as a condition of obtaining, maintaining or exonerating a bail bond, regardless of the identity of the person who performs such favors; and

(Z) providing legal advice or a legal opinion in any form.

This Regulation is issued in accordance with Pa.R.Crim.P. 536 and will become effective thirty (30) days after the date of its publication in the *Pennsylvania Bulletin*. As required by Pa.R.Crim.P. 105, the original Regulation will be filed with the Prothonotary in a Docket maintained for General Court Regulations issued by the First Judicial District of Pennsylvania, and copies will be submitted to the Administrative Office of Pennsylvania Courts, the Legislative Reference Bureau and the Criminal Procedural Rules Committee. Copies of the Regulation will also be submitted to American Lawyer Media, *The Legal Intelligencer*, Jenkins Memorial Law Library, and the law library for the First Judicial District. The Regulation will also be posted on the First Judicial District's website at <http://courts.phila.gov>.

C. DARNELL JONES, II,
President Judge,
Court of Common Pleas

LOUIS J. PRESENZA,
President Judge,
Municipal Court

JAMES J. FITZGERALD, III,
Administrative Judge, Trial Division,
Court of Common Pleas

[Pa.B. Doc. No. 06-652. Filed for public inspection April 21, 2006, 9:00 a.m.]

Title 25—LOCAL COURT RULES

FRANKLIN AND FULTON COUNTIES

Adoption of Local Criminal Rule 39—703(d); CB- 28-AD-1-2006

Order of Court

April 6, 2006, the following Criminal Action Rule is adopted for the Court of Common Pleas of the 39th Judicial District of Pennsylvania, Franklin County Branch: Rule 39-703(d), to be effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

By the Court

JOHN R. WALKER,
President Judge

Rule 39—703(d) Distribution of Pre-Sentence Reports on Offenders Participating in the Day Reporting Program

The Franklin County Adult Probation Department may release a copy of the Pre-Sentence Report prepared on offenders required to participate in and successfully complete the Franklin County Day Reporting Program operated by Behavioral Interventions, that the report shall be made available to the Franklin County Day Reporting Center upon the admission of the offender to the program, that the Pre-Sentence Report shall be used by the staff of the Franklin County Day Reporting Center as an informational tool in assessing the offender's risks/needs

to determine appropriate treatment programming, that the Pre-Sentence Report contains information which may also be controlled by State and Federal Confidentiality statutes and any information contained therein shall not be copied, released to, shared with, re-released or otherwise disseminated to the offender, researchers, attorneys, or any other individual, program or entity, and that upon discharge from or completion of the Franklin County Day Reporting Program the Pre-Sentence Report shall be returned immediately to the Franklin County Adult Probation Department.

[Pa.B. Doc. No. 06-653. Filed for public inspection April 21, 2006, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Suspension

Notice is hereby given that Francine S. Gritz, a/k/a Francine R. Solomon, having been suspended from the practice of law in the State of Delaware for a period of three years by Opinion and Order of the Supreme Court of Delaware decided October 26, 2005, the Supreme Court of Pennsylvania issued an Order dated April 7, 2006 suspending Francine S. Gritz, a/k/a Francine R. Solomon, from the practice of law in this Commonwealth for a period of three years, to run concurrent with the suspension imposed by this Court on September 26, 2005. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

ELAINE M. BIXLER,
Secretary
The Disciplinary Board of the
Supreme Court of Pennsylvania

[Pa.B. Doc. No. 06-654. Filed for public inspection April 21, 2006, 9:00 a.m.]

Notice of Suspension

Notice is hereby given that Scott J. Wood having been suspended from the practice of law in the State of New Jersey for a period of three months by Order of the Supreme Court of New Jersey dated July 21, 2005, the Supreme Court of Pennsylvania issued an Order dated April 7, 2006 suspending Scott J. Wood from the practice of law in this Commonwealth for a period of three months, effective May 7, 2006. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

ELAINE M. BIXLER,
Secretary
The Disciplinary Board of the
Supreme Court of Pennsylvania

[Pa.B. Doc. No. 06-655. Filed for public inspection April 21, 2006, 9:00 a.m.]

PROPOSED RULEMAKING

ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CH. 245]

Administration of the Storage Tank and Spill Prevention Act

The Environmental Quality Board (Board) proposes to amend Chapter 245 (relating to administration of the storage tank and spill prevention program) to read as set forth in Annex A. The proposed rulemaking represents both comprehensive and minor editorial amendments to the Department of Environmental Protection's (Department) existing regulations in Chapter 245, which includes Subchapters A—H. With the exception of Subchapter D (relating to corrective action process for owners and operators of storage tanks and storage tank facilities and other responsible parties), this proposed rulemaking represents the first major amendments to Chapter 245 since the final-form rulemaking published at 27 Pa.B. 5341 (October 11, 1997), which significantly amended Subchapter A (relating to general provisions), and initially established permitting and technical requirements in Subchapters C and E—G.

This order was adopted by the Board at its meeting of December 20, 2005.

A. Effective Date

The proposed rulemaking will go into effect upon final-form publication in the *Pennsylvania Bulletin*.

B. Contact Persons

For further information, contact Charles M. Swokel, Chief, Division of Storage Tanks, P. O. Box 8763, Rachel Carson State Office Building, Harrisburg, PA 17105-8763, (717) 772-5806; or Kurt Klapkowski, Assistant Counsel, Bureau of Regulatory Counsel, P. O. Box 8464, Rachel Carson State Office Building, Harrisburg, PA 17105-8464, (717) 787-7060. Information regarding submitting comments on this proposed rulemaking appears in Section J of this preamble. Persons with a disability may use the AT&T Relay Service, (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). This proposed rulemaking is available on the Department's website at www.dep.state.pa.us.

C. Statutory Authority

The proposed rulemaking is being made under section 106 of the Storage Tank and Spill Prevention Act (Storage Tank Act) (35 P.S. § 6021.106), which authorizes the Board to adopt rules and regulations governing aboveground storage tanks (AST) and underground storage tanks (UST) to accomplish the purposes and carry out the provisions of the Storage Tank Act; sections 107(d) and 108 of the Storage Tank Act (35 P.S. §§ 6021.107(d) and 6021.108), which authorize the Department to establish a certification program by regulation for installers and inspectors of storage tanks; section 301(a) and (d) of the Storage Tank Act (35 P.S. § 6021.301(a) and (d)), which requires the Department to establish a regulatory program for ASTs and a simplified program for small ASTs; sections 301(b) of the Storage Tank Act and 501(b) of the Storage Tank Act (35 P.S. § 6021.501(b)), which authorize the Department to establish classes and categories of tanks by regulation; sections 302(a) and 303(a) of the Storage Tank Act (35 P.S. §§ 6021.302(a) and

6021.303(a)), which authorize the Department to establish registration and fee requirements for ASTs; section 501(a) of the Storage Tank Act, which requires the Department to establish a regulatory program for USTs; sections 502(a) and 503(a) of the Storage Tank Act (35 P.S. §§ 6021.502(a) and 6021.503(a)), which authorize the Department to establish registration and fee requirements for USTs; section 701(a) and (b) of the Storage Tank Act (35 P.S. § 6021.701(a) and (b)), which authorizes the Board to establish regulations necessary for maintaining financial responsibility and methods of coverage; and section 1920-A of The Administrative Code of 1929 (71 P.S. § 510-20), which authorizes the Board to formulate, adopt and promulgate rules and regulations that are necessary for the proper work of the Department.

D. Background and Purpose

The Board established the initial rulemaking governing administration of the storage tank and spill prevention program with its final-form publication of Chapter 245, Subchapter A and Subchapter B (relating to certification program for installers and inspectors of storage tanks and storage tank facilities), which was published at 21 Pa.B. 4345 (September 21, 1991). In that initial rulemaking, Federal requirements in 40 CFR Part 280 (relating to technical standards and corrective action requirements for owners and operators of underground storage tanks (UST)) were adopted by reference in Subchapter A. Later, in August 1993, the Board established comprehensive corrective action process regulations when it adopted Subchapter D, which the Board last amended at 31 Pa.B. 6615. With the exception of Subchapter D, these regulations have been in use without any significant changes since amendments to Subchapters A, C, E, F and G became final in 1997 and since the last substantial amendments of Subchapter B published at 26 Pa.B. 4735 (September 28, 1996). Through the operation of these regulations over the past several years, the Department has identified many changes that are necessary to provide clarity, improvements in storage tank operations and administrative processes, and to protect public health, safety and the environment.

The proposed amendments to Subchapter A would add two new definitional terms, change several existing terms and delete one term that is no longer needed. The proposed amendments provide needed clarifications on regulated tank systems and regulated substances. This includes the re-regulation of previously regulated and subsequently exempted large ASTs storing heating oil that is consumed on the premises. These tanks pose the same risk as other large ASTs and were unintentionally exempted when definitional terms from the UST requirements in 40 CFR Part 280 were previously codified in the Commonwealth's current regulations. The Department wants to correct this and re-regulate these large aboveground heating oil tanks. The regulated substance changes include the addition of several nonpetroleum oils, bio-diesel, synthetic fluids, gasoline additives and other hazardous substances that should be properly managed in regulated storage tank systems. The proposed amendments add clarity to existing tank handling and tightness testing provisions in Subchapter A, as well as recordkeeping, reporting requirements and appropriate release detection references. The proposed rulemaking also adds comprehensive storage tank registration provisions and references the statutory registration fees in Subchapter A.

The registration procedures are representative of long-standing Department policy on storage tank registration.

The proposed amendments to Subchapter B include changes to tank installer, inspector and company certification provisions. These proposed amendments pertain to qualifications, training, testing, education and renewal of certification. These proposed amendments would place increased emphasis on training and standards of performance and reduce the number of qualifying activities required to obtain certification. Certified entities have expressed significant interest in moving from current qualifications that are based more on activities to more training qualifications, as activities in the field have declined over the years. These proposed amendments are needed to help ensure that adequate numbers of qualified installers and inspectors are certified and available to perform tank handling and inspection activities in this Commonwealth. Certified companies already incur technical and safety training costs for their certified employees and should be able to use that training to meet the proposed certification requirements. Also, the Department provides administrative training and seminars at minimal or no cost.

This proposed rulemaking would change permitting provisions in Subchapter C (relating to permitting of underground and aboveground storage tank systems and facilities), by adding clarity, simplifying certain site specific installation permit (SSIP) requirements and addressing when construction design criteria or engineering specifications may be required with permit applications. The proposed amendments would reduce paperwork and administrative processes for many SSIP applicants and combines the operating permit application and tank registration application process. Construction design criteria and engineering specifications are a necessary part of tank construction. The Department currently reviews this information for permits that require specific plans to mitigate certain conditions at the site. The proposed amendments are needed to further clarify this requirement and does not place a new burden or cost on the tank owner or SSIP applicant.

The proposed rulemaking would also amend technical standards for UST systems in Subchapter E (relating to technical standards for underground storage tanks). The most significant changes in Subchapter E involve requirements for totally contained double-wall UST systems when new or replacement UST systems are installed, changes in monitoring for releases, the need for line leak detectors that automatically shut down the system when triggered and increases in UST inspection frequencies. These proposed amendments are more restrictive than Federal requirements in 40 CFR Part 280 that allow single-wall UST systems and additional or alternative monitoring methods for leak detection. The proposed rulemaking also clarifies recordkeeping requirements and addresses additional recordkeeping requirements that are necessary to support operational compliance with both the Commonwealth's regulations and Federal requirements in 40 CFR Part 280, but are not clearly stated in the current regulations. The proposed rulemaking also contains provisions that preclude future UST internal lining, and requires removal of UST systems with failed linings. These proposed amendments are necessary due to continuing problems with releases of regulated substances to the environment, particularly from single-wall USTs, from failed lined USTs and piping systems, and due to failure of many owners or operators to properly perform leak detection or to maintain operational records. The Department is concerned about the continuing releases

and the inadequacy of storage tank leak detection and current operations. The proposed rulemaking would also provide a phase-in period of temporary exclusions from certain technical requirements or equipment upgrades needed for existing tanks that become regulated due to the addition of new regulated substances in § 245.1 (relating to definitions). Proposed amendments to UST variance provisions would allow for additional variances and promote the development and implementation of new technologies.

The proposed rulemaking would also amend technical standards for AST systems and facilities in Subchapter F (relating to technical standards for aboveground storage tanks and facilities) and requirements for small AST systems in Subchapter G (relating to simplified program for small aboveground storage tanks). The proposed rulemaking provides a phase-in period of temporary exclusions from certain technical requirements and inspection schedules needed for existing tanks that become regulated due to the definitional changes and addition of new regulated substances in § 245.1. The proposed rulemaking also contains additional information on AST system design requirements, engineering specifications and inspection or testing criteria. This should be helpful in determining when tanks are properly constructed, modified and maintained, and how best to determine suitability for service or to resolve tank system deficiencies noted during construction or inspection. Proposed amendments to AST variance provisions would allow for additional variances and encourage the development and implementation of new technologies.

Lastly, the proposed amendments to Subchapter H (relating to financial responsibility requirements for owners and operators of underground storage tanks and facilities) clarifies financial responsibility requirements established in the Storage Tank Act for appropriate methods of meeting the UST indemnification fund deductible coverage and would correct other minor errors in Subchapter H.

The Department worked closely with informal technical workgroups and advisory subcommittees, as well as the Storage Tank Advisory Committee (STAC), during development of this proposed rulemaking. The Department also met with several organizations, associations and groups, such as the Electric Power Generator Association, the National Association of State Aboveground Storage Tank Programs and the Tank Installers of Pennsylvania, a State association. The STAC, which was established by section 105 of the Storage Tank Act (35 P. S. § 6021.105), consists of persons representing a cross-section of organizations having a direct interest in the regulation of storage tanks in this Commonwealth. As required by section 105 of the Storage Tank Act, the STAC has been given the opportunity to review and comment on this proposed rulemaking. At meetings on February 5, 2002, June 4, 2002, June 3, 2003, December 9, 2003, and December 7, 2004, the STAC reviewed and discussed this proposed rulemaking. At the December 7, 2004, meeting, the STAC voted on the proposed rulemaking, and the chairperson subsequently prepared a written report on the proposed rulemaking for presentation to the Board. The STAC supported all portions of the proposed rulemaking, except for the proposal to increase registration fees. The fee increases have subsequently been removed from this proposed rulemaking. A listing of STAC members and minutes of STAC meetings are available on the PA Power Port at www.state.pa.us (PA Keyword: DEP

Storage Tanks) and may also be obtained from Charles M. Swokel, whose contact information appears in Section B of this preamble.

E. Summary of Regulatory Requirements

Subchapter A. General Provisions

§ 245.1. Definitions.

This section is proposed to be amended by adding two new definitional terms, by amending several existing definitional terms and by deleting a definitional term that is no longer needed.

The term “nontank handling project activities” is being added to correlate with proposed standards of performance changes in § 245.132 (relating to standards of performance) and to clarify that certified companies are responsible for all of the work that their employees perform while conducting tank handling or inspection activities on a storage tank project, including the work on the project that does not constitute tank handling and may be performed by noncertified employees.

The term “pipeline facilities (including gathering lines)” is being amended to clarify which tanks located along coastal, interstate or intrastate pipelines are exempted and to clarify that storage tanks that may serve dual functions at complex facilities are to be regulated under Chapter 245.

The terms “aboveground storage tank,” “certified company,” “hazardous substance storage tank system,” “person,” “tightness testing activities” and “underground storage tank” are being amended to provide clarity and to correct errors in the existing definitions. For example, the current definition of “tightness testing activities” implies that these activities only apply to USTs. The proposed amendment clarifies that the term applies to entire UST systems, which would include both tanks and piping.

The definition of “consumptive use” is being amended to reestablish Department regulation of large ASTs greater than 30,000 gallons in capacity and storing heating oil that is consumed on the premises. These large ASTs were inadvertently exempted when Federal UST regulations and definitional terms in 40 CFR Part 280 were codified in Chapter 245 in 1997.

The definition of “regulated substance” is also being amended to provide clarity and to bring under regulation several nonpetroleum oils, bio-diesel, synthetic oils, silicone fluids, gasoline additives (such as ethanol and other oxygenates) and nonpetroleum substances in 34 Pa. Code Chapter 323 (relating to hazardous substance list). These are substances that present health, safety or environmental hazards and are not currently found on the hazardous substance list from section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C.A. § 9601(14)) or are not currently regulated as a petroleum substance.

Lastly, the term “new underground storage tank system” is to be deleted. This term was adopted in 1997 from the Federal definitions in 40 CFR Part 280 and was applicable to the December 22, 1998, deadline for upgrade or removal of then existing USTs. Since that date has passed and the proposed amendments to Subchapter E refer to new UST systems in a different context, the current regulatory term is not applicable or needed.

§ 245.21. Tank handling and inspection requirements.

The proposed amendment clarifies that certified installers must either perform tank handling activities or provide direct onsite supervision and control of these

activities. The proposed amendment adds clarity to this section and correlates with standards of performance requirements in § 245.132.

§ 245.31. Underground storage tank tightness testing requirements.

The proposed amendments to this section correlate with changes in the cross referenced sections of Subchapter E and add clarity to this section. The proposed amendments also prescribe a specific timeframe of 20 days for providing a complete report and test results that correspond with other leak detection reports by third parties, such as completed statistical inventory reconciliation reports (§ 245.444(8)(ii)(A) (relating to methods of release detection for tanks)), and establishes a 10-year period for tank tightness testers to retain records of the tightness testing activities they perform. This record retention period correlates with recordkeeping requirements for tank handling and inspection activities performed by other certified installers and inspectors (§ 245.132(a)(3)).

§ 245.41. Tank registration requirements.

This new section provides tank owners with the necessary information to properly register each regulated storage tank. These proposed requirements have been program policy for several years.

Subsection (a) states that proper tank registration consists of meeting the requirements of this section and paying the appropriate registration fee in accordance with § 245.42 (relating to tank registration fees).

Subsection (b) requires tank owners to register each storage tank, on a form provided by the Department, within 30 days after installation or taking ownership of a storage tank. The registration form is available on the Department’s website at www.dep.state.pa.us (DEP Keywords: storage tanks). A regulated substance is not to be placed in a storage tank, nor is a storage tank to be operated, until an operating permit is received.

The information that must be provided by tank owners for complete registration is listed in subsection (c).

Subsection (d) indicates that a registration form also serves as an application for an operating permit. The Department may register a tank and not issue an operating permit for the reasons cited in this subsection. Certain classes of storage tanks require an SSIP prior to beginning construction. These requirements are provided in Subchapter C. The registration form discussed in this section does not serve as an application for an SSIP.

Subsection (e) sets forth registration requirements for combination tanks operating as a single unit and compartmental tanks.

Subsection (f) provides instances when tank owners need to submit an amended registration form to the Department. The registration form needs to be submitted within 30 days of the change in previously submitted information.

Subsection (g) provides that the Department may require supporting documentation to exempt or exclude a tank from regulation.

§ 245.42. Tank registration fees.

This new section provides tank owners with current tank registration fees, billing information and related procedures. Subsections (c)—(g) represent existing program policy being codified into regulation.

Subsections (a) and (b) reference the statutory tank registration fees that were established in sections 302(a) and 502(a) of the Storage Tank Act and became effective on August 5, 1989. No changes or increases are proposed in the fee amounts.

Subsection (c) provides that the Department will issue an invoice to a tank owner upon receipt of a complete registration form.

Under proposed subsection (d), registration expiration dates for storage tanks will be established on a facility basis. Upon initial registration of a storage tank, the Department will prorate the registration fee based upon the percentage of time remaining in the registration year. For example, if a storage tank is registered 2/3 of the way through a registration year, the invoice will reflect payment for 1/3 of the registration fee for that year. If a storage tank is permanently closed or exempted after the appropriate registration fee has been paid for the registration year, the Department will not refund any registration fees.

Subsection (e) states that the Department will issue a certificate of registration to the tank owner upon payment of the required registration fee. The current, valid certificate of registration must be made available for inspection by the Department, a certified individual or product distributor. At retail facilities, the certificate of registration is to be displayed so that the public can see the certificate.

In accordance with subsection (f), the Department will issue an invoice to the tank owner for the annual registration renewal of the tanks at each facility. The invoice will be issued once per year, at least 60 days prior to the expiration date of the current certificate of registration.

Subsection (g) states that registration fees are payable no later than 60 days after the invoice date, and will be delinquent 90 days after the invoice date. Since a certificate of registration (which also serves as the operating permit) will not be issued by the Department until payment of the registration fee is received, the Department highly recommends that payment be made at least 3 weeks prior to the expiration date of the current certificate. This will allow the Department to verify that sufficient funds are available to cover the payment and issue a renewal certificate prior to expiration of the current certificate.

§ 245.43. Failure to pay registration fee.

This new section proposes that Commonwealth policy and guidelines will be implemented to collect delinquent registration fees. Subsections (b) and (c) state that operating permits for storage tanks may be withheld, denied or revoked for failure to pay registration fees.

Subchapter B. Certification Program for Installers and Inspectors of Storage Tanks and Storage Tank Facilities

§ 245.102. Requirement for certification.

The proposed amendments to this section incorporate editorial changes resulting from the proposed deletion of § 245.103(a)—(c) (relating to phase-in from interim certification) and the proposed transfer of § 245.103(d) to this section as subsection (e).

The proposed amendments to subsections (a)(4) and (b)(4) allow the Department to not issue certification if the applicant is in violation of the Storage Tank Act or Chapter 245. Currently, this section requires the revocation of the applicant's certification by the Department

under § 245.109 (relating to revocation of certification). Revocation is not appropriate for new applicants or applicants currently certified and under investigation for violations. The Department may withhold action on a certification application until an investigation is complete or violations are resolved.

§ 245.103. Phase-in from interim certification.

This section is proposed to be reserved. Subsections (a)—(c) are proposed for deletion, since these subsections are no longer relevant to the certification process. Subsection (d) is proposed to be added to § 245.102 (relating to requirement for certification) as subsection (e) and modified slightly.

§ 245.104. Application for installer or inspector certification.

The proposed amendments to this section include clarification that the applicant shall use the current application form, editorial changes resulting from the proposed deletion of § 245.103 and decreasing from 120 to 60 the number of days an application shall be submitted prior to the date of the certification examination.

§ 245.105. Certification examinations.

The proposed amendment to subsection (c) clarifies the examination eligibility interval and is consistent with current information provided to the applicant.

The proposed amendment to subsection (d) reduces the passing score for the technical examination modules to 80%. This creates similar passing scores for both the administrative and technical examination modules and correlates related industry training/testing requirements.

The proposed amendments to subsection (e) eliminate the requirement that an applicant who fails an examination module twice shall complete a training program and establish an eligibility interval or timeframe for retaking the examination.

§ 245.106. Conflict of interest.

The proposed amendment to this section clarifies that tank owners may not inspect their own tanks.

§ 245.108. Suspension of certification.

The proposed amendments to this section include editorial changes and provisions that violations of the Air Pollution Control Act (35 P. S. §§ 4001—4015) or failure to perform underground tightness testing activities in accordance with requirements can result in suspension of certification.

§ 245.109. Revocation of certification.

The proposed amendments to this section are editorial changes resulting in the consistent use of terms.

§ 245.110. Certification of installers.

The proposed amendments to this section combine the individual certification categories for underground storage tank removal (subsection (b)(2)) and aboveground manufactured storage tank removal (subsection (b)(6)) into a new manufactured storage tank removal category. The Department believes that the tank removal activities are similar, thereby allowing the certified individual to remove both underground and manufactured AST systems.

Proposed amendments to subsection (b)(7) allow individuals certified in the aboveground field constructed metallic storage tank installation, modification and removal category to modify tank components of aboveground manufactured storage tank systems. Indi-

viduals certified on field constructed ASTs have the qualifications and experience to modify manufactured ASTs.

Proposed amendments to subsection (b)(8) allow an individual certified in the aboveground field constructed storage tank removal category to remove manufactured ASTs.

Proposed amendments to subsection (b)(11) clarify that an individual certified in the storage tank liner (TL) category can install and modify internal linings for underground and ASTs and evaluate UST linings.

§ 245.111. Certified installer experience and qualifications.

The proposed amendments to this section place a greater emphasis on technical and safety training as a requirement for initial category certification. The total number of required activities is proposed to be reduced based on the decrease in the overall number of tank handling activities occurring in the industry. The proposed numbers are sufficient to verify that the applicant is experienced and competent in the category. Proposed amendments to subsection (b) reduce the period in which activities are completed from 7 years to 3 years immediately prior to the application submission.

§ 245.112. Certification of inspectors.

Proposed amendments to subsection (b)(3) allow an inspector certified in the aboveground field constructed category to also inspect manufactured AST systems.

§ 245.113. Certified inspector experience and qualifications.

The proposed amendments to this section change the requirements for initial inspector certification categories. Applicants will need to document safety training appropriate for the certification category. AST system inspectors will be required to have appropriate industry inspection certification such as American Petroleum Institute (API) or Steel Tank Institute (STI) inspection certification. UST system inspectors will be required to have UST installation and modification certification and corrosion protection training. Proposed subsection (h) clarifies that underground inspectors shall complete Department inspector training prior to conducting facility operation inspections.

§ 245.114. Renewal and amendment of certification.

The proposed amendments to this section create a uniform expiration date for all categories held by an installer/inspector and phase out certification category renewal based on the number of activities completed. Certification renewal will be based on appropriate technical and safety training or passing the category specific examination or industry certification, or both. The Department will maintain the certification examination and provide administrative and inspector training.

Proposed amendments to subsection (g) clarify the time period in which certification renewal application shall be submitted. Renewal applications received more than 60 days after the expiration date of the category must meet the initial application requirements in § 245.105 (relating to certification examinations) and § 245.111 or § 245.113 (relating to certified installer experience and qualifications; and certified inspector experience and qualifications).

§ 245.121. Certification of companies.

The proposed amendments to this section clarify that a company that employs certified installers/inspectors, including underground tightness testers, shall be certified by the Department.

§ 245.122. Applications for company certification.

The proposed amendments to this section prevent the Department from issuing company certification to a company that is to be found in violation of the Storage Tank Act or Chapter 245, or that has an officer who was involved in an individual or company certification revocation.

§ 245.123. Suspension of company certification.

The proposed amendments to this section broaden the reasons for suspension of company certification and provide consistency between the reasons for individual suspension in § 245.108 (relating to suspension of certification) and company certification suspension.

§ 245.124. Revocation of company certification.

The proposed amendments to this section broaden the reasons for revocation of company certification and provide consistency between the reasons for individual revocation in § 245.109 and company certification revocation.

§ 245.125. Renewal and amendment of company certification.

The proposed amendments to this section reduce the number of days, from 120 days to 60 days prior to the company certification expiration date, that a renewal application shall be submitted. The proposed amendment to subsection (b) provides that a company certification amendment form shall be submitted within 14 days of the change in information.

§ 245.132. Standards of performance.

The proposed amendments to subsection (a)(1) remove the list of referenced organizations and instead refer directly to lists located in Subchapters E, F and G.

The other proposed amendments to this section provide editorial changes and codify the current expectations and requests made by the Department in reference letters, reporting form instructions and guidance documents.

§ 245.141. Training approval.

The proposed amendments to this section reduce the number of days, from 120 days to 60 days prior to the expiration date, that a renewal application shall be submitted. The proposed amendments also allows the Department to approve industry-recognized training without the submission of an application.

Subchapter C. Permitting of Underground and Aboveground Storage Tank Systems and Facilities

§ 245.203. General requirements for permits.

The proposed amendments this section add appropriate references to the new registration requirements in Subchapter A and add provisions allowing the Department to preclude submission of general operating permit application and to deem approval of operating permits for existing tanks that meet permitting requirements.

§ 245.222. Application requirements.

The proposed amendments to this section add to the existing references the appropriate references to administrative and technical requirements in Subchapters A and G. The referenced sections have always been applicable to

storage tank owners and operators, but were inadvertently left out of the general operating permit provisions in the previous rulemaking.

§ 245.231. Scope.

The proposed amendments add clarity to this section and simplify the SSIP application process and specific requirements for installation of storage tanks at existing facilities, for replacement storage tanks or tanks located on the footprint of previous tanks and for small ASTs that constitute a new storage tank facility with greater than 21,000-gallon aggregate storage capacity. The proposed amendments also provide for excluding certain newly regulated large aboveground heating oil tanks from the SSIP process when the owner or operator has entered into contractual agreements for construction of tanks or facilities prior to the effective date of this proposed rulemaking.

§ 245.232. General requirements.

Proposed subsection (c) refers permit applicants to the appropriate permit fee sections in the Storage Tank Act that have been applicable to SSIP applications since Subchapter C was adopted in 1997.

§ 245.234. Siting requirements.

This rulemaking proposes to add subsections that provide for submission of appropriate construction design criteria and engineering specifications when it is necessary to mitigate certain conditions at the site. The Department will not issue an SSIP if it determines that the plans are not adequate or do not mitigate the site conditions, such as potential excessive settlement or unstable support for the tank system proposed in the permit application.

§ 245.235. Environmental assessment.

The proposed amendments to this section add clarity as to the Department's role in consulting with appropriate government agencies and potentially affected persons concerning potential environmental harm addressed in the environmental assessment associated with an SSIP application.

Subchapter D. Corrective Action Process for Owners and Operators of Storage Tanks and Storage Tank Facilities and Other Responsible Parties

§ 245.311. Remedial action plan.

The proposed amendment to this section is to correct a minor editorial error in the reference to remedial action plans that may differ from prior plans submitted with the site characterization report under § 245.310(a)(25) (relating to site characterization report).

Subchapter E. Technical Standards for Underground Storage Tanks

Throughout this subchapter, references are updated that the proposed rulemaking has changed, as appropriate. Certain terms are proposed to be amended in this subchapter for consistency with the definitions in Subchapter A. It is also proposed to correct minor typographical errors.

§ 245.403. Applicability.

The proposed amendment to this section allows owners of existing UST systems that become regulated because of definition changes 60 days to register their tank systems and 3 years to complete any applicable upgrades to meet the technical requirements in Subchapter E.

§ 245.404. Variances.

Proposed amendments to this section allow variances in situations when application of technical regulations may be impractical. The Department is also proposing to clarify the status of new technologies. New technologies properly documented by a professional engineer (PE) may be considered by the Department when making the decision to grant a variance under this section.

§ 245.405. Codes and standards.

Proposed amendments to this section name sources of codes and practices that may be used for meeting the requirements in Subchapter E, to add requirements that parallel Subchapter A and to clarify that these regulations take precedence over industry standards when there is a conflict.

§ 245.411. Inspection frequency.

Proposed amendments to this section change the routine facility inspection frequency from 5 years or 10 years to 3 years for all UST systems. This proposed amendment is consistent with proposed Federal legislation. It has been generally found that more frequent inspections lead to higher compliance rates and fewer releases to the environment. In addition, the United States General Accounting Office (GAO) report to Congress in May 2001, entitled "Environmental Protection-Improved Inspections and Enforcement Would Better Ensure the Safety of Underground Storage Tanks," addressed the effectiveness of the Federal UST program, state agencies' implementation and inspection frequencies. The GAO reported that ideally USTs and facility operations should be physically inspected on an annual basis to ensure that problems are being identified and resolved quickly. Where a state or region lacks resources, tanks should be inspected no less frequently than once every 3 years to confirm tanks are being properly operated and maintained. Federal requirements in 40 CFR 280.21 and 280.31 (relating to upgrading of existing UST systems; and operation and maintenance of corrosion protection) only establish inspection requirements or frequencies for internally lined UST systems and for corrosion protection systems. However, in its formal agreements with the Commonwealth, the United States Environmental Protection Agency (EPA) has requested that additional UST facility operations inspections be conducted by the Department certified third-party inspectors. Also, section 501(c) of the Storage Tank Act directs the Department to establish a certified inspector program and inspection frequencies for USTs.

It has been proposed to exclude the first 6 months of ownership from the time period during which a new owner may have the UST facility inspected. A large portion of the facility inspection is the examination of the operation of critical systems, such as release detection equipment. It is desirable that a minimum of 6 months of operating history be accumulated to adequately assess this part of the owner's responsibilities. To simplify the language of this paragraph, it is proposed that the date that this provision becomes effective be replaced by the term, "newly installed."

The proposed rulemaking strengthens the requirements for additional inspections and adds requirements for mandatory operator training under appropriate circumstances. A proposed wording change should eliminate the occasional misinterpretation that the Department cannot compel additional inspections. Owners and operators that have noncompliant inspection results often express the need for training to better understand their responsibilities. Mandatory training is proposed as one remedy to

help owners and operators come into and maintain their compliance with Chapter 245.

§ 245.421. Performance standards for new underground storage tank systems.

Proposed amendments to this section mandate total secondary containment (double-wall) systems and an upgraded form of line leak detection for new UST systems. Federal requirements in 40 CFR 280.20 (relating to performance standards for new UST systems) allow for single-wall UST systems. However, Department records indicate that 60% of UST systems and approximately 80% of piping systems installed since 1998 already meet the double-wall requirement. The additional containment will aid in early release detection and keeping releases from reaching the environment.

To aid the Department in overseeing installers, the proposed rulemaking adds a requirement to notify the Department 30 days prior to beginning installation activities. The Department may agree to another, reasonable time frame. This is similar to the current 30-day notice requirement for UST system closure or removals in § 245.452(a) (relating to permanent closure and changes-in-service).

Changing a tank system from unregulated to regulated service is considered an installation. A certified installer may not have installed this system. The Board proposes to amend this section to clarify what is required of the owner when the owner plans to change an unregulated system to regulated use.

Many of the technical requirements for new and previously installed UST systems are the same. The proposed rulemaking incorporates the redundant portions of § 245.422 (relating to upgrading of existing underground storage tank systems) into this section.

The Board proposes to amend this section to clarify corrosion protection requirements for tanks, piping and other metallic components (not just steel), including ancillary equipment when it routinely contains product. Proposed amendments also clarify that wrapping with tape or similar material alone does not constitute corrosion protection. Proposed amendments clarify that a corrosion expert shall design impressed current systems.

To help ensure older systems do not become a source of new releases, it is proposed that whenever more than 30% of a piping system is replaced, the entire piping portion of the system be upgraded to total secondary containment. The proposed rulemaking clarifies the extent of the piping system as including joints and flexible connectors.

To ensure UST systems are adequately designed and safe for intended use, the proposal requires piping and related components to be approved by Underwriters Laboratory (UL listed).

A common problem is for containment sumps to collect stormwater or groundwater and not be able to perform their required function. The proposed rulemaking requires containment sumps to be liquid tight. The proposed rulemaking should not be interpreted to mean vapor tight or requiring a totally sealed lid. Rather, the sump needs to be capable of holding and retaining liquids if a release of regulated substance occurs. The sump must prevent groundwater from entering or substantial surface water from routinely accumulating in the sump. The proposed rulemaking also requires testing of containment systems at installation to demonstrate tightness. These proposed amendments help ensure that product that was

caught by a containment sump would be identified through leak detection and would not enter the environment. The proposed rulemaking is consistent with manufacturer's recommendations for installation and maintenance of containment sumps.

Current regulations require devices to prevent overflow of UST systems. Inspections have found inoperative devices and devices that do not work as intended. The Board proposes to amend this section to restrict the use of certain overflow devices to systems that can function properly. In addition, the proposed rulemaking requires testing of the required overflow device at installation.

§ 245.422. Upgrading of existing underground storage tank systems.

Upgrading UST systems has not been as successful as originally intended. The Board proposes that lining and lining combined with corrosion protection no longer be allowed to meet corrosion protection standards. The proposed rulemaking allows systems that currently use these methodologies to continue to use them as long as they are operated and maintained properly. Federal requirements in 40 CFR 280.21 allowed this method of corrosion protection to meet the 1998 upgrade deadline. The upgrade deadline has since passed, and existing UST systems should already meet corrosion protection requirements.

Tanks that were upgraded by lining alone are required to be periodically inspected. The Board proposes to codify policy in Department guidance #257-3120-001 (relating to evaluation of underground storage tank liners) into this section. This policy states that evaluations are to be done by a certified TL or qualified PE; results of the evaluation are to be submitted to the Department on the form attached to the guidance document; after a lined system fails to meet required design criteria, the tank system can no longer be used for regulated storage.

To help detect releases on older tank systems, the Board proposes that tanks over 3,000 gallons capacity must upgrade to automatic tank gauging when release detection equipment is modified or replaced and the owner is not using interstitial monitoring. The proposed rulemaking also requires that line leak detection equipment must shut off the product delivery pump. Existing systems with interstitial monitors or electronic line leak detectors will be given 2 years to meet this requirement; systems over 3,000 gallons capacity that use a mechanical line leak detector will be given 5 years to meet this requirement. Federal requirements in 40 CFR 280.44 (relating to methods of release detection for piping) also allow for line leak detectors that may only alert the operator by restricting (or slowing) the flow of regulated substances or by triggering an alarm. In many instances, these options have been ineffective and have not prevented ongoing substance releases as intended.

§ 245.423. Registration requirements.

The proposed amendments move the majority of this section to Subchapter A to clarify the requirement to register all regulated storage tank systems. See proposed § 245.41 for additional information.

§ 245.425. Reuse of removed tanks.

Proposed amendments to this section reflect changes in other portions of this subchapter and improve clarity and readability.

§ 245.432. Operation and maintenance including corrosion protection.

The proposed rulemaking renumbers paragraphs as subsections to more clearly differentiate among the listed maintenance activities.

The proposed amendments also clarify maintenance and operational requirements for owners. Clarification is proposed concerning what needs to be inspected on impressed current systems and what equipment is required to be properly maintained.

Proposed additions to subsections detail maintenance of tank linings and system containment structures. Also proposed is an addition concerning the proper maintenance of water-free petroleum products to prevent corrosion problems with the tank system and to protect the product user. The proposed amendment is consistent with Nationally recognized association and equipment manufacturer's standards.

§ 245.434. Repairs allowed.

Proposed amendments to this section include containment systems in the portion of the tank system that must be tested after a repair and to expand the recordkeeping requirements to all repairs.

§ 245.435. Reporting and recordkeeping.

The proposed rulemaking renumbers and rearranges subsections to clearly differentiate between records that shall be maintained for the operational life of a storage tank system (permanent records) and those that are required to be maintained for a limited time (temporary records). The proposed rulemaking includes extending the maintenance of permanent records to 1 year beyond permanent system closure.

The proposed rulemaking includes adding the current registration certificate as a temporary record. Further, it proposes to clarify corrosion protection operation recordkeeping requirements by splitting the entry into two detailed paragraphs. The proposed rulemaking also adds paragraphs for temporary records that were found in other parts of this subchapter, but not in this section. Specifically, these temporary records are release detection certifications, performance claims and maintenance records. It is also proposed that records of suspected release investigations be added to the temporary record category, to be maintained for 12 months.

§ 245.441. General requirements for underground storage tank systems.

§ 245.442. Requirements for petroleum underground storage tank systems.

These sections contain provisions for the phase-in of release detection requirements for older UST systems. The deadlines for upgrading have all passed. It is proposed that these sections be updated to remove the phase-in information and eliminate inventory control by 2008 and manual tank gauging for tanks greater than 1,000 gallons capacity within 10 years of the effective date of the final-form rulemaking.

In addition, a requirement is proposed to monitor interstitial spaces for releases at least once every 30 days, when practical for older systems and for all new systems, and maintain records of monitoring results for 12 months.

§ 245.444. Methods of release detection for tanks.

Proposed amendments to this section clarify the meaning of "portions of the tank that routinely contain prod-

uct" for tightness tests performed by an automatic tank gauge, as that portion of the tank up to the overfill set point.

The proposed amendments also require the replacement or certification of automatic tank gauges that do not currently have a valid third-party certification.

To meet the requirements of the Engineer, Land Surveyor and Geologist Registration Law (63 P. S. §§ 148—158.2), the proposed rulemaking adds requirements for professional geologists to perform site evaluations related to release detection methods. It is further proposed that when site evaluations are required for release detection, that the evaluation be maintained for the entire time that method is in use at the site.

§ 245.445. Methods of release detection for piping.

This section is proposed to be amended to be consistent with the upgrade requirements in § 245.422. For new and upgraded systems, the line leak detection device must shut off the flow of regulated substance when a release is detected. Federal requirements in 40 CFR 280.44 also allow for line leak detectors that may only alert the operator by restricting (or slowing) the flow of regulated substances or by triggering an alarm. In many instances, these options have been ineffective and have not prevented ongoing regulated substance releases as intended.

§ 245.451. Temporary closure.

The proposed amendments to this section include the more familiar industry term "temporary out-of-service" and narrow the definition of "temporary closure" to tanks that are empty.

Further, the proposed amendments clarify the inspection, reporting and recordkeeping requirements when a UST system is in temporary closure: corrosion protection records must be maintained as for an in-use system; suspected release investigation and release reporting must be performed as for an in-use system; facilities must continue to be inspected as for an in-use facility; and the most recent 12 months of operating release detection records must be maintained.

Finally, the proposed rulemaking limits the period of temporary closure for fully compliant UST systems to 3 years, after which the system must be permanently closed (unless the Department grants an extension).

Subchapter F. Technical Standards for Aboveground Storage Tanks and Facilities

§ 245.503. Variances.

The proposed amendments to this section are intended to allow variances in situations when application of the technical regulations may be impractical. The Department is also proposing to clarify the status of new technologies. New technologies properly documented by a PE may be considered by the Department when making the decision to grant a variance under this section.

§ 245.504. Referenced organizations.

The proposed amendments to this section reflect editorial changes to referenced organization names (titles) in subsection (a), which changed since this subchapter was originally adopted in 1997, and adds manufacturer's specifications to the Nationally recognized codes and standards referenced in subsection (c).

§ 245.505. Applicability.

This new section is intended to provide temporary exclusions for existing tanks that become regulated due to

the addition of newly regulated substances or certain reregulated heating oil tanks due to changes in the "consumptive use" and "regulated substance" terms in § 245.1. The temporary exclusions will provide phase-in periods to comply with monitoring requirements and inspection schedules that are similar to the phase-in periods provided for other existing tanks when this subchapter was originally adopted in 1997.

§ 245.514. Security.

The proposed rulemaking adds monitoring as an element of security that the tank owner or operator may include in appropriate security measures.

§ 245.522. New aboveground tank installations and reconstructions.

The proposed rulemaking adds references to STI practices or applicable engineering specifications and sound engineering practices during design, construction or reconstruction of tanks. Additional language provides that the Department may require the tank owner to submit documentation of construction design criteria and engineering specifications for review.

§ 245.523. Aboveground storage tanks in underground vaults.

The proposed amendments to this section require that underground piping distribution systems (such as piping from the tank to the product dispenser) for certain aboveground tanks in underground vaults be provided with release detection equivalent to methods of release detection provided for piping associated with UST systems in Subchapter E.

§ 245.524. Aboveground tank modifications.

The proposed rulemaking adds two additional references to Nationally recognized associations for tank modification design and the authority for the Department to require the tank owner to submit documentation of design criteria and engineering specifications for review.

§ 245.534. Interior linings and coatings.

The proposed rulemaking adds subsection (c) to address inspection requirements for tank interior linings or coatings, which correlate with the lining manufacturer or design engineer recommendations.

§ 245.541. Overfill prevention requirements.

The proposed rulemaking contains minor edits and provisions for upgrading existing tanks with high-level alarms within 3 years of the effective date of the final form rulemaking. This change is necessary because the current rules only require upgrades when tanks are taken out of service for inspection or major modification and many tanks that need high-level alarms do not require these out-of-service activities.

§ 245.542. Containment requirements for aboveground storage tank systems.

The proposed rulemaking contains minor edits, clarifications and a deadline for upgrading or meeting requirements for emergency containment structures. Reference to the Department's technical document for verification of emergency containment structures, and information on how long verification of the containment structure is valid, are also added.

§ 245.543. Leak detection requirements.

The proposed rulemaking contains clarifications and adds subsection (d) to address requirements for third-

party tank test for tightness methods and procedures consistent with industry practices and applicable National associations.

§ 245.552. In-service inspections.

§ 245.553. Out-of-service inspections.

The proposed rulemaking adds the requirement that appropriate engineering criteria and the current referenced National association standards shall be followed when conducting inspections and includes evaluation of tank system integrity and suitability for service during inspections. Additional language is proposed for determining tank service life and projecting the next inspection interval. This information specifically identifies the factors that most frequently affect service life and should, therefore, be considered when projecting the next inspection interval. Also, language is proposed to appropriately remedy inspection recommendations or findings, as well as clarification on documenting and reporting tank system modifications necessary to correct deficiencies. Additionally, § 245.553(c) (relating to out-of-service inspections) is proposed to address evaluation of the tank bottom during out-of-service inspections.

§ 245.554. Installation and modification inspections.

The proposed amendments to this section contain similar language as proposed to be added in § 245.552(e) (relating to in-service inspections) and § 245.553(f), with the same intention of clarifying actions that shall be taken in response to inspection findings involving modification inspections.

§ 245.561. Permanent closure or change-in-service.

Proposed paragraph (3) is intended to assist owners in the closure notification process by directing them to follow the process outlined in the Department's technical document entitled "Closure Requirements for Aboveground Storage Tank Systems." This is similar to the current reference in Subchapter E to UST closure requirements. Proposed language in paragraphs (6) and (8) is intended to provide clarification to existing wording and require notification to other agencies or jurisdictions when removing tanks when they have permit jurisdiction.

Subchapter G. Simplified Program for Small Aboveground Storage Tanks

§ 245.604. Referenced organizations.

§ 245.611. Testing requirements for new and substantially modified small aboveground storage tanks.

§ 245.614. Requirements for closure.

The proposed amendments to these sections reflect minor editorial changes or referenced title changes since this subchapter was originally adopted in 1997 and specific requirements for closure of piping systems.

§ 245.605. Applicability.

This proposed section is intended to provide temporary exclusions for existing tanks that become regulated due to the addition of new regulated substances in § 245.1. The temporary exclusions will provide phase-in periods to comply with containment requirements, leak detection and inspection schedules that are similar to the phase-in periods provided for other existing tanks when this subchapter was originally adopted in 1997.

§ 245.612. Performance and design standards.

The proposed amendments to this section are in response to frequent misunderstandings of the current regulations by the regulated community. The proposed

rulemaking addresses the requirement to use certified installers to accomplish tank handling activities on small ASTs and provides direction consistent with industry standards and EPA guidelines on the use of double-walled tanks to satisfy containment requirements.

§ 245.616. Inspection requirements.

The proposed amendments to this section provide additional clarity on inspection standards, determining future inspection intervals, remedies to correct deficiencies noted during inspection and reporting to the Department on corrections of deficiencies found during inspection.

Subchapter H. Financial Responsibility Requirements for Owners and Operators of Underground Storage Tanks and Storage Tank Facilities

§ 245.704. General requirements.

§ 245.707. Coverage amounts for financial responsibility.

The proposed amendments to these sections make editorial corrections and clarify appropriate methods for meeting the Underground Storage Tank Indemnification Fund (USTIF) deductible coverage for owners and operators of USTs.

F. Benefits, Costs and Compliance

Benefits

Subchapter A

The proposed amendments to definitional terms will provide clearer interpretations of current and amended regulations and will help to ensure that several hazardous and nonpetroleum substances not previously addressed, are regulated and treated like other similar (currently regulated) substances to protect public health, safety and the environment. These amendments include newly developed fuels or alternatives such as bio-diesel, synthetic fuels and potential additives such as ethanol, which may be used to replace oxygenates, such as methyl-tertiary-butyl-ether (MTBE), and could pose some risks similar to MTBE. The reregulation of many large ASTs holding heating oil will help to ensure that these tanks are operated, inspected and eventually upgraded to meet the same protective standards that other currently regulated oil tanks must meet.

The new registration provisions will provide tank owners and the Department a much needed and comprehensive publication of tank registration requirements. These requirements are currently only available through several publications such as fact sheets, program guidance and registration form instructions, and are fractionalized in several sections of the current technical and permitting rules and interim requirements in the Storage Tank Act.

Subchapter B

The proposed amendments to the installer and inspector certification provisions will provide much more flexibility for new certification candidates and renewal applicants. The increased reliance on continued training will help to ensure that certified individuals stay current with changes in industry practices, and take advantage of available recognized industry training. Proposed amendments to the company certification provisions will help to ensure that companies are held to the same standards the certified individuals are held to and provides incentive for certified companies to continue investing in training for their certified employees. The proposed amendments to standards of performance provisions will help to ensure the quality, proper verification and reporting of work by installers and inspectors.

Subchapter C

The proposed amendments to permitting provisions will help simplify the SSIP process for many applicants, while ensuring that appropriate design criteria and engineering considerations are used to mitigate specific conditions that pose potential problems at some tank sites. The proposed amendments will also clarify that the tank registration process and single application also serve as the operating permit application.

Subchapter E

The proposed amendments to UST technical requirements will help to reduce the number and significance of releases from UST systems. The proposed amendments will help to ensure that best practices and state-of-the-art storage tank systems and ancillary equipment are used, while encouraging new technologies and providing more flexibility through variance provisions. The temporary exclusions for newly regulated tanks will provide owners additional time to plan for and to meet all of the UST technical requirements. The use of totally contained (double-wall) tank systems for new or replacement systems and phase-in of specific release detection methods will significantly aid in preventing future releases and will help to identify and capture leaks before they enter the environment. Fewer and less serious releases should help lower USTIF fees in years to come. More frequent inspections will help to ensure that operational and compliance problems are identified and resolved more quickly, which should also reduce the frequency and severity of releases. Recordkeeping changes will help tank owners to substantiate compliance with current and proposed Commonwealth requirements, and current Federal UST requirements which are not as clear as they should be.

Subchapters F and G

The proposed amendments to the AST technical requirements will add clarity, needed references and increase the reliance on appropriate industry practices and publications to achieve the standards in the regulations. The additional information on AST system design requirements, engineering specifications and inspection or testing criteria should be helpful in determining when tanks are properly constructed, modified and maintained, and how best to determine suitability for service or to resolve tank system deficiencies noted during construction or inspection. The references to program guidance documents will lead persons to proven technical processes and procedures that will help them to comply with the regulatory requirements, similar to the current guidance reference in Subchapter E.

Compliance Cost

Subchapter E

The cost of the average UST facility third-party operations inspection is approximately \$350 per inspection. UST owners or operators will incur this cost every 3 years under the proposed rulemaking, rather than every 5 years or 10 years under the current inspection frequencies. The cost of installation of total secondary containment (double-wall) UST systems is approximately 15% to 30% greater than the cost of installation of single-wall UST systems. Costs will vary depending on the types of tank systems and materials used (fiberglass, steel or composite tank wall and hard or flexible piping). These costs are only incurred when new or replacement systems are installed. Approximately 150 UST systems were installed annually during the past 4 years. Department records indicate that 60% of the UST systems and

approximately 80% of piping systems installed since 1998 already meet the double-wall requirement. Costs for testing containment sumps for tightness could range from \$50 to \$100. The cost of upgrading a line leak detector that only slows product flow or sounds an alarm, to a line leak detector with an automatic pump shut-off device ranges from \$100 to \$500 depending on availability of electric service and circuitry in the current system. This cost is only incurred on existing piping systems already using an interstitial monitor or an electronic line leak detector within 2 years, and UST systems with a capacity greater than 3,000 gallons within 5 years of the effective date of the proposed rulemaking or when a line leak detector is replaced.

Generally, certified companies and tank owners should not incur significant new costs for certified individual training requirements, technical requirements to perform tests on ancillary equipment or to follow industry standards or applicable engineering practices when operating, modifying, installing or inspecting storage tank systems. These are costs that should already be incurred and industry practices that should be currently adhered to. These requirements are reinforced in several areas throughout the proposed rulemaking, but they are not new to the industry. Finally, the Department does not anticipate that it will need any new staff resources or incur significant expenditures as a result of the proposed rulemaking.

Compliance Assistance Plan

At this time, it is not anticipated that the Commonwealth will provide sources of financial assistance to aid in compliance with this proposed rulemaking.

As for technical and educational assistance, the Department currently operates a fairly extensive program of outreach activities designed to assist owners and operators of storage tanks as well as individuals. This program includes the *Storage Tank Monitor* (a periodic newsletter); a series of fact sheets that focus on single issues in the storage tank program (for example, Leak Detection: Meeting the Requirements); periodic seminars and conferences focusing on storage tank technical and administrative issues; training sessions presented by regional and central office training teams on a variety of issues; many guidance documents addressing technical and policy issues; and a great deal of information available on the Department's website. The Department will revise and update applicable fact sheets, guidance documents, forms and publications to reflect changes necessary when the proposed rulemaking is adopted.

The Department expects these efforts to continue and to intensify after adoption of this rulemaking and as phase-in deadlines approach. The Department will also communicate directly with individuals, companies, associations, organizations and groups to assist in the understanding and implementation of the final-form rulemaking.

Paperwork Requirements

Generally, there are very few new paperwork requirements established by the proposed rulemaking. The paperwork requirements addressed with the new registration provisions in Subchapter A follow current processes established by policy and ongoing routine procedures under the Storage Tank Act. By further clarifying in Subchapter C that the new storage tank registration provisions and application form will also serve as the tank operating permit application form, the proposed rulemaking precludes two separate applications. Addition-

ally, the proposed SSIP process in Subchapter C for replacement tanks, tanks located on the footprint of previous tanks and new small ASTs at facilities with an aggregate capacity greater than 21,000 gallons, includes a shortened application and less paperwork.

The certification proposals in Subchapter B will slightly reduce the application requirements for UST removers and aboveground manufactured storage tank removers, by consolidating the requirements into a single certification category. The proposed rulemaking also attempt to recognize current and ongoing industry training in certification qualifications for all installer and inspector certification categories. Most certified companies already maintain records on their employees training and will welcome recognition of the training for certification. The proposed rulemaking will also shorten the timeframe for submission of applications for approval of training providers and will allow the Department to recognize industry training without the submission of an application. For example, the Department will readily recognize training provided by equipment manufacturers and National associations or organizations such as the API, the STI and the Petroleum Equipment Institute.

The UST provisions in Subchapter E contain some new recordkeeping requirements and further clarification of current requirements. However, most of the proposed amendments are necessary to demonstrate operational compliance with current regulations and the Federal requirements in 40 CFR Part 280 and represent National association and manufacturer's recommendations for installation or operation of UST systems and ancillary equipment.

Finally, there are proposed provisions in Subchapters C, F and G that indicate the Department may request or require the tank owner to submit documentation of construction design criteria and engineering specifications for review. The provisions are addressed in the context of mitigating certain conditions at the storage tank site or correcting inspection findings or deficiencies on AST systems. Tank owners should already be consulting with tank manufacturers, certified companies and design engineers on these issues. The Department anticipates its use of these provisions will be very limited.

G. Pollution Prevention

Generally speaking, the term "pollution prevention" refers to the minimization of waste generated in a commercial process by altering that process. The storage tank program has a slightly different approach. The goal is to keep regulated substances from being released at all. The programs in this proposed rulemaking and in the current regulations are designed to halt the release and spread of regulated substances from storage tanks in this Commonwealth. They create a program similar to the cradle-to-grave process with the goal of making sure that the storage tank is installed, maintained, operated, closed and removed in a manner that will minimize the likelihood of a release occurring. If a release does occur, these amendments and the current regulations are designed to detect the release quickly, contain it if possible, and make sure that corrective action is carried out expeditiously, minimizing exposure to the public and the environment.

In this proposed rulemaking, the Department is attempting to reach or improve upon these goals through a combination of performance standards, with built-in flexibility (including the possibility of a variance) as to how the regulated community achieves the goals, and reliance on industry standards, and trained industry profession-

als. By taking this approach, the Department hopes to reduce pollution, lower the number of corrective actions that must eventually be performed, decrease the amounts of contaminated soil and groundwater that must be dealt with, and do so in a manner that is flexible, reasonable and cost effective.

H. *Sunset Review*

The regulations will be reviewed in accordance with the sunset review schedule published by the Department to determine whether the regulations effectively fulfill the goals for which they were intended.

I. *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on April 7, 2006, the Department submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Environmental Resources and Energy Committees. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Department, the General Assembly and the Governor of comments, recommendations or objections raised.

J. *Public Comments*

Written Comments—Interested persons are invited to submit comments, suggestions or objections regarding the proposed rulemaking to the Environmental Quality Board, P. O. Box 8477, Harrisburg, PA 17105-8477 (express mail: Rachel Carson State Office Building, 15th Floor, 400 Market Street, Harrisburg, PA 17101-2301). Comments submitted by facsimile will not be accepted. Comments, suggestions or objections must be received by the Board by June 29, 2006. Interested persons may also submit a summary of their comments to the Board. The summary may not exceed one page in length and must also be received by June 29, 2006. The one-page summary will be provided to each member of the Board in the agenda packet distributed prior to the meeting at which the final-form rulemaking will be considered.

Electronic Comments—Comments may be submitted electronically to the Board at RegComments@state.pa.us and must also be received by the Board by (within 60 days following publication in the *Pennsylvania Bulletin*). A subject heading of the proposed rulemaking and a return name and address must be included in each transmission. If an acknowledgement of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt.

KATHLEEN A. MCGINTY,
Chairperson

Fiscal Note: 7-395. No fiscal impact; (8) recommends adoption.

Annex A

**TITLE 25. ENVIRONMENTAL PROTECTION
PART I. DEPARTMENT OF ENVIRONMENTAL
PROTECTION**

**Subpart D. ENVIRONMENTAL HEALTH AND
SAFETY**

ARTICLE VI. GENERAL HEALTH AND SAFETY

**CHAPTER 245. ADMINISTRATION OF THE
STORAGE TANK AND SPILL PREVENTION
PROGRAM**

**Subchapter A. GENERAL PROVISIONS
GENERAL**

§ 245.1. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Aboveground storage tank— One or a combination of stationary tanks with a capacity in excess of 250 gallons, including the underground pipes and dispensing systems connected thereto within the emergency containment area, which is **used, will be used** or was used to contain an accumulation of regulated substances, and the volume of which, including the volume of piping within the storage tank facility, is greater than 90% above the surface of the ground. The term includes tanks which can be visually inspected, from the exterior, in an underground area. The term does not include the following, or pipes connected thereto:

* * * * *

***Air Pollution Control Act*—The Air Pollution Control Act (35 P. S. §§ 4101—4106)**

* * * * *

Certification categories—Individual certification categories issued to certified installers or certified inspectors to perform tank handling, tightness testing or inspection activities on aboveground or underground storage tank systems and facilities. The term includes category specific certifications in one or more of the following:

(i) Storage tank inspector certification categories:

(A) IAF—Inspection of aboveground field constructed and aboveground manufactured storage tank systems and facilities.

(B) IAM—Inspection of aboveground manufactured storage tank systems and facilities.

(C) IUM—Inspection of underground storage tank systems and facilities.

(ii) Storage tank installer certification categories:

(A) ACVI—Aboveground storage tank civil installation and modification.

(B) AFMX—Aboveground field constructed metallic storage tank installation, modification and removal, and aboveground manufactured metallic storage tank modification.

(C) AFR—Aboveground field constructed storage tank removal.

(D) AMEX—Aboveground storage tank mechanical installation, modification and removal.

(E) AMMX—Aboveground manufactured metallic storage tank installation and modification.

(F) AMNX—Aboveground nonmetallic storage tank installation and modification.

(G) MTR—Manufactured storage tank removal.

(H) TL—Storage tank liner installation and modification.

(I) UMX—Underground storage tank system installation and modification.

(J) UTT—Underground storage tank tightness tester.

Certified company—An entity, including, but not limited to, a sole proprietorship, a partnership or a corporation, which is [authorized by this title] certified by the Department and employs certified installers or certified inspectors to conduct tank handling activities, tightness testing activities or inspection activities [using certified installers or certified inspectors, or both].

* * * * *

Consumptive use—The term means, with respect to heating oil, that which is stored in an aboveground storage tank of 30,000 gallons or less capacity or that which is stored in an underground storage tank and is consumed on the premises.

* * * * *

Hazardous substance storage tank system—

(i) A storage tank system that contains a hazardous substance defined in section 101(14) of CERCLA (42 U.S.C.A. § [101] 9601(14)).

(ii) The term does not include a storage tank system that contains a substance regulated as a hazardous waste under Subtitle C of CERCLA, or mixture of the substances and petroleum, and which is not a petroleum system.

* * * * *

[*New underground storage tank system*—An underground storage tank system that will be used to contain an accumulation of regulated substances and for which installation has commenced after December 22, 1988. (See the definition of “existing underground storage tank system.”)]

* * * * *

Nontank handling project activities—Activities performed by a certified company or employee of a certified company on a project that may not be tank handling activities, but are part of the certified company’s responsibility while completing tank handling or inspection activities on a storage tank system project.

* * * * *

Person— An individual, partnership, corporation, association, joint venture, consortium, institution, trust, firm, joint-stock company, cooperative enterprise, municipality, municipal authority, Federal Government or agency, Commonwealth Department, agency, board, commission or authority, or other legal entity which is recognized by law as the subject of rights and duties. In provisions of the act prescribing a fine, imprisonment or penalty, or a combination thereof, the term includes the officers and directors of a corporation or other legal entity having officers and directors.

* * * * *

Pipeline facilities (including gathering lines)—New and existing pipe rights-of-way and associated equipment,

facilities or buildings regulated under the Hazardous Liquid Pipeline Safety Act of 1979 or the Natural Gas Pipeline Safety Act of 1968, codified without substantive change in 1994 by Pub. L. No. 103-272, 108 Stat. 1371 (49 U.S.C.A. §§ 60101–60125) which may include coastal, interstate or intrastate pipelines and tanks essential to the operation of the pipeline, such as tanks used to hold substances that operate compressors or pumps directly connected to the pipeline and breakout tanks used solely to relieve pressure surges from the pipeline and then re-inject substances from the pipeline back into the pipeline, but does not include dual purpose tanks or tanks at complex facilities which may serve both as breakout tanks and as storage tanks or feed stock tanks for the purposes of this chapter.

* * * * *

Regulated substance—

(i) An element, compound, mixture, solution or substance that, when released into the environment, may present substantial danger to the public health, welfare or the environment which is one of the following:

(A) A substance defined as a hazardous substance in section 101(14) of the [Comprehensive Environmental Response, Compensation, and Liability Act of 1980] CERCLA (42 U.S.C.A. § 9601), including hazardous substances that are liquid or gaseous, or suspended therein regardless of holding temperature, but not including a substance regulated as a hazardous waste under Subtitle C of the Resource Conservation and Recovery Act of 1976 (42 U.S.C.A. §§ 6921–6931).

(B) Petroleum, including crude oil or a fraction thereof and petroleum hydrocarbons which are liquid at standard conditions of temperature and pressure (60°F and 14.7 pounds per square inch absolute), including, but not limited to, oil, petroleum, fuel oil, oil sludge, oil refuse, oil mixed with other nonhazardous wastes and crude oils, gasoline and kerosene.

(C) Other substances determined by the Department by regulation whose containment, storage, use or dispensing may present a hazard to the public health and safety or the environment, but not including gaseous substances used exclusively for the administration of medical care. This includes the following other regulated substances:

(I) Nonpetroleum oils including bio-diesel; synthetic fuels and oils, such as silicone fluids; tung oils and wood-derivative oils, such as resin/rosin oils; and inedible seed oils from plants, which are liquid at standard conditions of temperature and pressure. When requirements between hazardous and petroleum substances differ, the requirements for petroleum tanks apply for this group of substances.

(II) Compounds for use as additives in gasoline and not already found on the list from section 101(14) of CERCLA. The requirements for hazardous substances apply to this group of compounds in their unblended condition, and the requirements for petroleum tanks apply after blending with gasoline reduces their concentration to less than 15% by volume of the stored substance.

(III) Nonpetroleum substances listed in 34 Pa. Code Chapter 323 (relating to hazardous substance list) that are environmental hazards and are liquid

or gaseous, or suspended therein regardless of holding temperature. Substances that appear on this list and do not have a CERCLA reportable quantity assigned must have a 1-pound reportable quantity for the purposes of this chapter. The requirements for hazardous substance apply to this group of compounds, except when they are already included in a group of substances classified as petroleum or regulated as a highly hazardous substance.

* * * * *

Tightness testing activities—Testing activities which are designed and intended to detect leaks when performing precision tests, volumetric and [non-volumetric] nonvolumetric tests on underground storage [tanks] tank systems.

* * * * *

Underground storage tank—One or a combination of tanks (including underground pipes connected thereto) which are used, were used or will be used to contain an accumulation of regulated substances, and the volume of which (including the volume of underground pipes connected thereto) is 10% or more beneath the surface of the ground. The term does not include:

* * * * *

TANK HANDLING ACTIVITIES

§ 245.21. Tank handling and inspection requirements.

(a) Tank handling activities shall be conducted by a certified installer except in the case of modification to an aboveground nonmetallic storage tank, which may be modified by the tank manufacturer. Storage tank facility owners and operators may not use persons who are not Department-certified to conduct tank handling activities except as noted in this subsection. **The certified installer shall perform the tank handling activity or provide direct onsite supervision and control of the activity.**

* * * * *

TIGHTNESS TESTING ACTIVITIES

§ 245.31. Underground storage tank tightness testing requirements.

(a) Tightness testing activities shall be conducted by a Department-certified underground tightness testing (UTT) installer, except when performed by an owner or operator using installed automatic tank gauging or monitoring equipment **meeting requirements in § 245.444(3) and (4) (relating to methods of release detection for tanks).**

(b) Tightness testing is required to be conducted when it is:

(1) Used as a method of release (leak) detection as prescribed in [§§ 245.442(1) and 245.443(1) (relating to requirements for petroleum underground storage tank system; and requirements for hazardous substance underground storage tank systems)] § 245.444(3) and § 245.445(2) (relating to methods of release detection for piping).

* * * * *

(e) A **complete** written test report shall be provided to the tank owner as documentation of test results **within 20 days of the test.** The test methodology, a certification

that the test meets the requirements of § 245.444(3) [relating to methods of release detection for tanks] or § 245.445(2) and sufficient test data, which were used to conclude that the tank passed or failed the tightness test, shall be included in the test report.

(f) **Certified underground tightness testing (UTT) installers shall maintain complete records of tightness testing activities for a minimum of 10 years as provided in § 245.132(a)(3) (relating to standards of performance).**

TANK REGISTRATION AND FEES

§ 245.41. Tank registration requirements.

(a) **Tank owners shall properly register each storage tank by meeting the requirements of this section and paying the appropriate registration fee required by § 245.42 (relating to tank registration fees).**

(b) **Tank owners shall register each aboveground storage tank and each underground storage tank with the Department, except as specifically excluded by Department policy or this chapter, on a form provided by the Department, within 30 days after installation or acquisition of an ownership interest in the storage tank. Unless otherwise approved by the Department, a regulated substance may not be placed in the tank and the tank may not be operated until the tank is properly registered and the Department approves an operating permit for the tank.**

(c) **A form for registration of a storage tank shall be complete upon submission to the Department and provide the following:**

- (1) **Tank owner, operator and contact information.**
- (2) **General facility, site and location information.**
- (3) **Specific tank description and usage information.**
- (4) **Specific tank construction, system components and installation information.**
- (5) **Owner or owner's representative certification validating the registration information and operating permit application.**
- (6) **Certified tank installer information and signature.**
- (7) **Certified tank inspector information and signature for certain classes of tanks addressed in § 245.21 (relating to tank handling and inspection requirements).**
- (8) **Other applicable information that may be required by the Department.**

(d) **The owner's registration form shall also serve as an operating permit application. The Department may register a tank and not approve an operating permit for the tank if the application, tank system or the storage tank facility does not meet the requirements of this chapter or the permit applicant is in violation of the act. Tank owners may not store, dispense from or place a regulated substance in a storage tank that does not have an operating permit unless otherwise agreed upon by the Department. Additionally, certain classes of tanks require a site specific installation permit prior to beginning construction of a new or replace-**

ment storage tank in accordance with Subchapter C (relating to permitting of underground and aboveground storage tank systems and facilities). Submission of a site specific installation permit application is a separate requirement for these tanks that is not satisfied by the registration form submission.

(e) A combination of tanks that operate as a single unit requires registration of each tank unless otherwise agreed upon by the Department. A tank that has separate compartments within the tank shall be registered separately and charged a separate tank fee for each compartment unless the compartments are connected in a manner that fills, dispenses and operates as a single unit maintaining the same regulated substance at the same operating level in each compartment.

(f) Tank owners shall submit a registration form to amend registration information previously submitted to the Department within 30 days of a change in the previously submitted information. These changes include, but are not limited to, the following:

- (1) Removal or relocation of a storage tank to a new facility.
 - (2) Temporary or permanent closure or removal from service of a storage tank.
 - (3) Change in use of a storage tank to or from regulated or nonregulated status, for example, changing a storage tank to use as a process vessel.
 - (4) Change in substance stored in the tank, unless otherwise agreed upon by the Department.
 - (5) Change of ownership or change of operator—new and previous owner.
 - (6) Change of contact, mailing address or telephone number.
 - (7) Installation of a new or replacement storage tank at an existing facility.
- (g) The Department may require submission of supporting documentation and process information for exemption or exclusion from regulation for a tank change in status or use from a regulated to a nonregulated status.

§ 245.42. Tank registration fees.

(a) Annual registration fees to be paid by owners of aboveground storage tanks are established under section 302 of the act (35 P. S. § 6021.302) as follows:

- (1) \$50 for each aboveground storage tank with a capacity less than or equal to 5,000 gallons.
- (2) \$125 for each aboveground storage tank with a capacity of more than 5,000 gallons and less than or equal to 50,000 gallons.
- (3) \$300 for each aboveground storage tank with a capacity of more than 50,000 gallons.

(b) Annual registration fees to be paid by owners of underground storage tanks are established under section 502 of the act (35 P. S. § 6021.502) as \$50 for each underground storage tank.

(c) The Department will issue an invoice to the tank owner after receipt of a complete registration form under § 245.41(c) (relating to tank registration

requirements). A tank owner filing a registration shall remit the appropriate fee upon receipt of the invoice.

(d) Registration expiration dates are established for storage tanks according to facility location. The Department will prorate the registration fee established by this section to reflect the percentage of time remaining in the registration year from the date of initial registration of a storage tank. The Department will not refund registration fees if an owner permanently closes a storage tank or exempts a storage tank through a change-in-service or change-in-status prior to the expiration of the storage tank's registration.

(e) The Department will issue a certificate of registration to an owner upon payment of the required registration fee. The tank owner shall have the current valid certificate of registration available for inspection by the Department, certified storage tank inspector or installer and product distributor. At facilities where a regulated substance is sold at retail to the public, the certificate of registration or an exact copy shall be publicly displayed in a noticeable area at the facility.

(f) The Department will issue an annual invoice to the tank owner for the annual renewal of all regulated tanks at the owner's facility once per year, at least 60 days prior to the expiration of the certificate of registration.

(g) Fees are payable no later than 60 days after the invoice date, and will be considered delinquent 90 days after the invoice date.

§ 245.43. Failure to pay registration fee.

(a) An owner who fails to pay the required registration fee shall be subject to Commonwealth policy and guidelines for collection of delinquent debts due the Commonwealth.

(b) Failure to pay registration fees could result in Departmental actions against the storage tank owner and the operator, including, but not limited to, revocation of operating permits issued by the Department under this chapter.

(c) The Department may register a tank, but may withhold or deny the operating permit for the tank if the owner has a delinquent registration debt for any regulated storage tank.

Subchapter B. CERTIFICATION PROGRAM FOR INSTALLERS AND INSPECTORS OF STORAGE TANKS AND STORAGE TANK FACILITIES

GENERAL CERTIFICATION REQUIREMENTS

§ 245.102. Requirement for certification.

(a) A person may not conduct tank handling or tightness testing activities unless that person holds a current installer certification issued by the Department for the applicable certification category as indicated in § 245.110 (relating to certification of installers), except as provided in § 245.31 (relating to underground storage tank tightness testing requirements). [Except as provided in § 245.103 (relating to phase-in from interim certification), installer] Installer certification will only be issued by the Department to a person who:

* * * * *

(4) Is not found to be in violation of the act or this chapter [and], or has not had a certification revoked by the Department under § 245.109 (relating to revocation of certification).

* * * * *

(b) A person may not conduct inspection activities at a storage tank system or storage tank facility required by the Department under the act and this part unless that person holds a current inspector certification issued by the Department for the applicable inspector certification category. [Except as provided in § 245.103, inspector] Inspector certification will only be issued by the Department to a person who:

* * * * *

(4) Is not found to be in violation of the act or this chapter [and], or has not had a certification revoked by the Department under § 245.109.

* * * * *

(e) If the EQB deletes or consolidates certification categories or amends qualifications for certification prior to the expiration date of an installer or inspector's category certification, the category certification may still be used until the expiration date of that category certification.

§ 245.103. [Phase-in from interim certification] (Reserved).

[(a) The Department may issue an installer certification or inspector certification on a temporary basis for the applicable certification category to any person who meets the minimum experience requirements under § 245.111 or § 245.113 (relating to certified installer experience and qualifications; and certified inspector experience and qualifications).

(b) A person certified as an installer or inspector on an interim basis under section 108 of the act (35 P. S. § 6021.108) who meets the minimum experience and qualification requirements under § 245.111 or § 245.113 may request temporary installer certification or temporary inspector certification on or before January 21, 1992. Failure to be granted temporary installer certification or temporary inspector certification on or before March 23, 1992, will result in revocation of interim certification.

(c) To be granted permanent installer certification or permanent inspector certification, a person who obtains temporary installer certification or temporary inspector certification under this section, shall, on or before September 21, 1994, achieve a passing grade on a certification examination administered or approved by the Department for one or more of the certified installer or inspector categories described in § 245.110 or § 245.112 (relating to certification of installers; and certification of inspectors). Failure to achieve a passing grade within this time will result in expiration of the temporary installer certification or temporary inspector certification.

(d) If the EQB deletes or consolidates certification categories or amends qualifications for certification prior to the expiration date of an installer or inspector's permanent certification, the permanent certification may still be used until the expiration date of the certification.]

§ 245.104. Application for installer or inspector certification.

* * * * *

(b) An application for installer or inspector certification shall be submitted to the Department on current forms provided by the Department and [shall] must contain the following information:

* * * * *

(c) An application for certification shall be received by the Department no later than [120] 60 days prior to the announced date of the certification examination.

* * * * *

(e) An applicant meeting the requirements of §§ 245.102(a)(4) or (b)(4) [and 245.103] (relating to requirement for certification[; and phase-in from interim certification]) will be granted admission to the certification examinations for which the applicant has requested certification and is qualified.

§ 245.105. Certification examinations.

* * * * *

(c) Only applicants who have been authorized by the Department, in accordance with this chapter, to take an examination will be admitted to an examination or issued a certification as a result of passing an examination. Authorization to take an examination will be based on compliance with [the requirements of] this chapter. Applicants who are authorized to take an examination are eligible to take the examination for up to 1 year from the date of authorization.

(d) To receive a passing grade on the examinations, the applicant for certification shall achieve a minimum score of [90] 80% on each technical section and a minimum score of 80% on the administrative section of the examination.

(e) [An applicant who fails two examinations for the same certification may not retake the examination until the applicant has successfully completed a training program that is administered or approved by the Department and focuses on those areas of the examination in which the applicant is deficient. Successful completion means attendance at all sessions of training and attainment of the minimum passing grade established by the Department in the approval of the training course under § 245.141 (relating to training approval), for all sections of all qualifying tests given as part of the training program.] An applicant who fails an examination is eligible to retake the examination for up to 1 year from the failed examination test date, but no later than 18 months from date of authorization.

§ 245.106. Conflict of interest.

(a) Except as provided in subsection (b), a certified inspector may not be one or more of the following:

(1) An [employe] employee of the tank owner or the tank owner.

* * * * *

§ 245.108. Suspension of certification.

(a) The Department may suspend the certification of a certified installer or certified inspector for good cause which includes, but is not limited to:

(1) A violation of the act or this [part] chapter.

* * * * *

(4) In the case of a certified inspector's failure to:

(i) Inform the owner or operator and the Department of conditions or procedures that are not in accordance with the manufacturer's technical and procedural specifications for installation, construction, modification or operation of the storage tank system or storage tank facility **and not in compliance with the act or this chapter.**

(ii) Conduct, review or observe a test or inspection activity required by the act or this [part] chapter.

* * * * *

(5) In the case of a certified installer's failure to:

(i) Be present during tank handling activities at the storage tank system or storage tank facility as required by the act [and] or this [part] chapter.

(ii) Conduct tank handling activities in accordance with [the requirements of] the act [and] or this [part] chapter.

* * * * *

(9) A violation of The Clean Streams Law, **Air Pollution Control Act** or the Solid Waste Management Act or regulations promulgated under those statutes by the certified individual which results in the following:

* * * * *

(10) Failure to perform underground tightness testing activities and documentation in accordance with § 245.31 (relating to underground storage tank tightness testing requirements).

* * * * *

§ 245.109. Revocation of certification.

(a) The Department may revoke the certification of a certified installer or certified inspector if the certified installer or certified inspector has done one or more of the following:

(1) Demonstrated a willful disregard of, or willful or repeated violations of the act or [regulations promulgated thereunder or] this [part] chapter.

* * * * *

§ 245.110. Certification of installers.

* * * * *

(b) Installer certifications may be issued for the following categories:

* * * * *

(2) [**Underground storage tank-removal {UMR}. Removal from service of underground storage tank systems or storage tank facilities.**

(3) *Underground storage tank-tightness tester {UTT}*. Tightness testing activities involved in conducting and interpreting results of volumetric and nonvolumetric tests on underground storage tank systems or storage tank facilities.

(3) **Manufactured storage tank-removal {MTR}. Removal from service of underground storage tank systems and manufactured aboveground storage tank systems or storage tank facilities.**

* * * * *

(6) [**Aboveground manufactured storage tank-removal {AMR}. Removal from service of aboveground manufactured storage tank systems or storage tank facilities.**

(7) *Aboveground field constructed metallic storage tank-installation, modification and removal {AFMX}*. Installation, modification and removal of aboveground field constructed metallic storage tanks and corrosion protection systems. **This category also covers the modification of tank components of an aboveground manufactured storage tank system.**

[(8)] (7) *Aboveground field constructed storage tank-removal {AFR}*. Removal from service of aboveground field constructed **and manufactured aboveground** storage tank systems or storage tank facilities.

[(9)] (8) * * *

[(10)] (9) * * *

[(11)] (10) *Storage tank-liner {TL}*. Activities involved in [**installing**] **installation or modification of** internal linings for underground and aboveground storage tank systems or storage tank facilities **and the evaluation of underground storage tank linings as required in § 245.422(b)(1)(ii) (relating to upgrading of existing underground storage tank systems).**

§ 245.111. Certified installer experience and qualifications.

(a) An applicant shall meet the following minimum experience [or], education **and training** requirements[, or both,] and have completed the required number of activities in the appropriate category for an **initial installer category** certification:

Category	[Total] <i>Experience [or], Education [plus Experience] and Training</i>	<i>Total Number of Activities Completed</i>
UMX	2 years, or college degree and 1 year Technical training	[15] 9 installations
[UMR	2 years, or college degree and 1 year	15 removals]
UTT	Department approved training with testing equipment manufacturer's certification	None
MTR	2 years, or college degree and 1 year Technical training	6 removals
AMMX	2 years, or college degree and 1 year Technical training	[15] 9 installations

<i>Category</i>	[Total] Experience [or], Education [plus Experience] and Training	<i>Total Number of Activities Completed</i>
	or UMX Certification Technical training	None
	or AFMX Certification	None
AMNX	2 years, or college degree and 1 year Technical training	[15] 9 which may be installations or major modifications
	or AMMX certification	6 AST installations
[AMR	2 years, or college degree and 1 year	15 removals
	or UMR Certification	None
	or AFR Certification	None]
AFMX	3 years, or college degree and 2 years Technical training	[20] 12 which may be installations or major modifications
AFR	2 years, or college degree and 1 year Technical training	[15] 6 removals
AMEX	3 years, or college degree and 2 years Technical training	[20 (10 installations and 10 modifications)] 12 installations or modifications (at least 6 installations)
ACVL	3 years, or college degree and 2 years Technical training	[20 (10 installations and 10 modifications)] 12 installations or modifications (at least 6 installations)
TL	2 years Manufacturer's certification	[15] 9 tank linings

(b) The total number of activities completed required by subsection (a) shall have been completed within the [7] 3-year period immediately prior to submitting the application for certification. The activities shall have been completed in compliance with Federal and State requirements and the applicant shall have had substantial personal involvement at the storage tank site in the activities. Noncertified individuals may work at the site but the certified installer is directly responsible to assure that the activities are conducted properly. This work qualifies toward the total number of activities completed requirements.

* * * * *

(g) [Six months experience may be accredited to an installer applicant who successfully completes a Department approved training program applicable to the certification category being requested. The 6 months experience shall be accredited to the total years of experience required by subsection (a), except for applicants who are substituting a college degree for experience.] Category-specific technical training required by subsection (a) shall be completed during the experience interval unless otherwise determined by the Department. The requirement for category-specific technical training is effective _____ (Editor's Note: The blank

refers to a date 1 year after the effective date of adoption of this proposal).

(h) The applicant shall document current safety training which is appropriate for the certification category. Training must be in accordance with regulatory requirements and industry standards and procedures such as Occupational Safety and Health Administration requirements in 29 CFR 1910 (relating to occupational and health standards for industry).

§ 245.112. Certification of inspectors.

* * * * *

(b) Inspector certifications may be issued for the following categories:

* * * * *

(3) IAF aboveground field constructed and aboveground manufactured storage tank systems and storage tank facilities.

§ 245.113. Certified inspector experience and qualifications.

(a) An initial applicant shall meet the following minimum experience [or education requirements, or both,] and qualifications and have completed the required number of activities in the appropriate category of an inspector category certification:

<i>Category</i>	[Total] Experience and Qualifications [or Education plus Experience]	<i>Total Number of Activities Completed</i>
IUM	<p>[1.] 4 years, or college degree and 2 years</p> <p>[2.] Department approved tank tightness testing familiarization course or UTT certification</p> <p>[or]</p> <p>[IAM certification and Department approved tank tightness testing familiarization course or UTT certification]</p> <p>UMX certification</p> <p>Corrosion protection training</p>	<p>[20 (10 installations and 10 major modifications) or (20 operations inspections for certification renewal applicants)] None</p> <p>[None]</p>
IAM	<p>[1.] 4 years, or college degree and 2 years</p> <p>[2. Nondestructive testing level 2 certification using current ASNT recommended practice (SNT-TC-1A) or Department approved aboveground tank inspector training course or] API 653 Certification</p> <p>or</p> <p>[IAF Certification]</p> <p>STI Inspector Certification</p> <p>or</p> <p>Department-approved aboveground tank inspector certification</p>	<p>[20 (which may be any combination of installations, major modifications or service inspections)] None</p> <p>[None]</p>
IAF	<p>[1.] 4 years, or college degree and 2 years</p> <p>[2. Nondestructive testing level 2 certification using current ASNT recommended practice (SNT-TC-1A) or Department approved API 653 training course or]</p> <p>API 653 certification.</p> <p>or</p> <p>Department-approved aboveground tank inspector certification</p>	<p>[20 (which may be any combination of installations, major modifications or inspections under API 653 standards)] 12 integrity or construction inspections</p>

(b) The total number of activities completed required by subsection (a) shall have been completed within the [7] 3-year period immediately prior to submitting the application for certification. The activities shall have been completed in compliance with Federal and State requirements and the applicant shall have had substantial personal involvement at the storage tank site in the activities.

* * * * *

(d) The total number of activities completed required by subsection (a) may be met through the conducting of [tank handling or] inspection activities. Noncertified individuals may work at the site but the certified inspector is directly responsible to assure that the activities are conducted properly. This work qualifies toward the total number of activities completed requirements.

* * * * *

(g) The applicant shall document current safety training which is appropriate for the certification category. Training must be in accordance with regulatory requirements and industry standards and procedures such as Occupational Safety and Health Administration requirements in 29 CFR 1910 (relating to occupational and health standards for industry).

(h) Certified inspectors of underground storage tanks (IUM) shall complete Department inspector training prior to conducting UST facility operation inspections required in § 245.411 (relating to inspection frequency).

§ 245.114. Renewal and amendment of certification.

(a) [Except as provided in § 245.103 (relating to phase-in from interim certification), certification shall be for 3 years from the date of issuance unless suspended or revoked. The date of certification expiration for amended certification applications shall coincide with the expiration dates of other certification categories for which the same certification examination modules were administered and passing grades were received. An applicant for renewal shall:] Certification categories renewed after _____ (Editor's Note: The blank refers to a date 60 days after the effective date of adoption of this proposal.) will have a uniform expiration date of 3 years from the issuance date of the first category renewed after _____ (Editor's Note: The blank refers to the effective date of adoption of this proposal).

(b) After the conversion to a uniform expiration date as provided in subsection (a), the issued certification will be valid for 3 years from the previous expiration date, unless suspended or revoked before that date.

(c) An applicant shall meet the following minimum training requirements or number of activities in the appropriate category for renewal of installer certification:

<i>Category</i>	<i>Training</i>	<i>Total Number of Activities Completed (Renewal by activities to be phased out _____ (Editor's Note: The blank refers to the effective date of this proposed rulemaking.))</i>
UMX	Examination or Technical Training Administrative Training	12 installations or major modifications
UTT	Testing equipment manufacturer's certification Administrative Training	None
MTR	Examination or Technical Training Administrative Training	6 removals
AMMX	Examination or Technical Training Administrative Training	12 installations or major modifications
AMNX	Examination or Technical Training Administrative Training	12 installations or major modifications
AFMX	Examination or Technical Training Administrative Training	12 installations or major modifications
AFR	Examination or Technical Training Administrative Training	6 removals
AMEX	Examination or Technical Training Administrative Training	12 installations or major modifications
ACVL	Examination or Technical Training Administrative Training	12 installations or major modifications
TL	Manufacturer's certification Administrative Training	12 tank linings

(d) An applicant shall meet the following requirements in the appropriate category for renewal of inspector certification:

(f) Technical and administrative training shall be obtained within 2 years prior to application submission. Administrative training will be provided by the Department.

<i>Category</i>	<i>Qualifications and Training</i>
IUM	Department Inspector Training
IAM	API 653 Certification or STI Inspector Certification or Department approved inspector certification and Department Inspector Training
IAF	API 653 certification or Department approved inspector certification and Department Inspector Training

(g) An applicant for renewal shall:

(1) Submit a completed application for renewal to the Department [at least] 60 to 120 days prior to the [renewal] expiration date or examination test date. Applicants who fail to submit a renewal application within 60 days following the expiration date shall meet the experience, qualifications and examination requirements for initial certification as required in § 245.111 or § 245.113 (relating to certified installer experience and qualifications; and certified inspector experience and qualifications) and the requirements in § 245.105 (relating to certification examinations).

(2) The applicant shall document current safety training which is appropriate for the certification category. Training must be in accordance with regulatory requirements and industry standards and procedures such as Occupational Safety and Health Administration requirements in 29 CFR 1910 (relating to occupational and health standards for industry).

[(2)] (3) * * *

[(3) Have been actively involved in tank handling or inspection activities in each individually certified category during the previous 3-year pe-

(e) Renewal of categories based on number of activities completed without technical training or examination as provided in subsection (c) will be a method of renewal until _____ (Editor's Note: The blank refers to a date 2 years after the effective date of adoption of this proposal.).

riod immediately prior to submitting the renewal application for certification or take the technical module examinations again for all inactive certification categories and achieve a passing grade as described in § 245.105(d) (relating to certification examinations).]

[(b)] (h) * * *

* * * * *

[(c)] (i) Certified installers or certified inspectors required to amend their certifications in accordance with subsection [(b)](h)(1) or (3) shall apply for amendment on a form provided by the Department.

[(d)] (j) Certified installers or certified inspectors required to amend their certifications in accordance with subsection [(b)](h)(2) shall comply with the applicable requirements of this chapter related to application, experience, qualifications and examination.

COMPANY CERTIFICATION

§ 245.121. Certification of companies.

After March 23, 1992, a company may not [perform or] employ a certified installer or certified inspector to perform tank handling, tightness testing or inspection activities unless the company holds a valid certification issued by the Department under this chapter and the company verifies that the certified installer or certified inspector holds a valid certification issued under this chapter for the appropriate category.

§ 245.122. Applications for company certification.

(a) Applications for certification shall be submitted to the Department on forms provided by the Department and [shall] include information that will enable the Department to determine if issuance of the certification [shall conform] conforms to [the requirements of] the act and this chapter. The following information shall be included:

* * * * *

(3) [A summary of the previous tank handling and inspection activities performed by the company and the officers of the company over the 7-year period immediately preceding the application.] Information on previous certification revocations under §§ 245.109 and 245.124 (relating to revocation of certification; and revocation of company certification) of company officers, the company and the company under a previous or fictitious name.

* * * * *

(c) The Department may not issue company certification if one or more of the following apply:

(1) The company is found to be in violation of the act or this chapter.

(2) The company certification was previously revoked under § 245.124.

(3) An officer of the company has had their individual certification revoked under § 245.109.

(4) An officer of the company was an officer in a company whose company certification was revoked under § 245.124 at the time the conduct resulting in revocation occurred.

§ 245.123. Suspension of company certification.

(a) The Department may suspend the certification of a certified company for good cause, which includes, but is not limited to:

* * * * *

(4) A violation of The Clean Streams Law, Air Pollution Control Act or the Solid Waste Management Act or regulations promulgated thereunder by the company or a certified installer or a certified inspector employed by the company which results in the following:

* * * * *

(6) Failure to provide oversight of employee certification applications, tank handling and inspection reports.

(7) Submission of false information to the Department or tank owner.

(8) Failure to have a properly certified installer in direct onsite supervision and control of a tank handling activity.

(b) A certified company shall surrender certification documents to the Department upon notification of suspension.

(c) The Department may reinstate the certification if the following apply:

* * * * *

[(c)](d) Suspension of a certification by the Department shall prevent a company from conducting tank handling, tightness testing or inspection activities during the suspension.

§ 245.124. Revocation of company certification.

(a) The Department may revoke the certification of a certified company for one or more of the following conditions:

* * * * *

(4) Willfully submitting false information to the Department.

(b) Revocation of a certification by the Department shall prevent a company from conducting tank handling, tightness testing or inspection activities.

(c) A certified company shall surrender certification documents to the Department upon notification of revocation.

§ 245.125. Renewal and amendment of company certification.

(a) Company certification shall be for 3 years from the date of issuance unless suspended or revoked before that date. An applicant for renewal shall submit a completed application for renewal to the Department [at least] 60 to 120 days prior to the [renewal] expiration date.

(b) A certified company shall notify the Department and file an amendment to its company certification on a form approved by the Department whenever there is a change in the information provided in the application for the certification. This form shall be submitted within 14 days of the date of a change in information.

STANDARDS FOR PERFORMANCE

§ 245.132. Standards of performance.

(a) Certified companies, certified installers and certified inspectors shall:

(1) Maintain [manufacturers, American Society of Nondestructive Testing (ASNT), American Petroleum Institute (API), American Society of Mechanical Engineers (ASME), Underwriters Laboratory (UL), Petroleum Equipment Institute (PEI), EPA and Department] current technical and administrative specifications and manuals, **Nationally recognized codes and standards, and State and Federal regulations** which pertain to the categories for which certification was issued. [**This material is available from the following sources:**] **Nationally recognized organizations are identified in §§ 245.405, 245.505 and 245.604 (relating to codes and standards; applicability; and referenced organizations).**

[(i) American Society of Nondestructive Testing, 1711 Arlingate Lane, Post Office Box 28518, Columbus, Ohio 43228-0518.

(ii) American Petroleum Institute, 2535 One Main Place, Dallas, TX 75202-3904.

(iii) American Society of Mechanical Engineers, 345 East 47th Street, New York, NY 10017.

(iv) Underwriters Laboratory, Suite 400, 818 Eighteenth Street, N.W., Washington D.C. 20006.

(v) Petroleum Equipment Institute, Post Office Box 2380, Tulsa, Oklahoma 74101.

(vi) Environmental Protection Agency, Region III, UST/LUST Section (3HW63), 841 Chestnut Building, Philadelphia, Pennsylvania 19107.

(vii) Department of Environmental Protection, Division of Storage Tanks, 400 Market Street, Post Office Box 8762, Harrisburg, Pennsylvania 17105-8762.]

(2) Complete and [file with] submit, within **60 days of the activity**, to the Department [on] a form, provided by the Department, [a certification] certifying that the tank handling activity or inspection activity conducted by the certified installer or certified inspector meets the requirements of the act and this [part] chapter and accurately describes the conditions of the storage tank system and facility.

(3) Maintain complete records of tank handling and inspection activities, **nondestructive examination and testing results and tightness testing records** for a minimum of 10 years.

* * * * *

(6) Not affix the certified installer's or certified inspector's signature or certification number to documentation concerning the installation or inspection of a component of a storage tank system project or to documentation concerning tank handling or inspection activity, unless:

* * * * *

(iii) **Installation or modification inspection activities were conducted on a large or field constructed aboveground storage tank and the certified inspector was involved prior to the initiation of the project and was present at critical times, so that the inspector can reliably determine that the following requirements were met:**

(A) **Industry standards and project specifications were followed throughout the tank handling activity.**

(B) **Appropriate testing and nondestructive examinations were properly conducted.**

(C) **The tank is suitable for operational service.**

(7) Not certify to an owner or operator or the Department that a storage tank system project or component thereof is complete unless it complies with the act or this chapter. **Project certification applies to both certified activities and nontank handling activities that may have been performed as part of the project.**

(8) Adhere to equipment manufacturer's instructions, accepted industry standards and applicable industry codes of practice when performing tank handling, tightness testing or inspection activities or other nontank handling activities on the project.

(9) **Provide requested records and documentation to the Department under section 107(c) of the act (35 P. S. § 6201.107(c)).**

(b) A certified installer or certified inspector shall display [his] a **certification identification card** or certificate upon request.

(c) **A certified company is responsible for employees having appropriate safety and technical training. Certified companies, certified installers and certified inspectors shall adhere to health and safety procedures, such as those required by the Federal Occupational Safety and Health Administration (OSHA) and the National Institute for Occupational Safety and Health (NIOSH).**

TRAINING APPROVAL

§ 245.141. Training approval.

* * * * *

(c) Training approval shall be for 3 years from the date of issuance. An applicant for renewal shall submit a completed application for renewal to the Department [at least] **60 to 120 days** prior to the [renewal] expiration date.

(d) **The Department may approve industry recognized training without the submission of an application as provided in subsection (a).**

Subchapter C. PERMITTING OF UNDERGROUND AND ABOVEGROUND STORAGE TANK SYSTEMS AND FACILITIES

GENERAL

§ 245.203. General requirements for permits.

* * * * *

(b) A person is not required to submit [an] a **separate application** for a permit if the storage tank system is subject to a permit-by-rule[, if the person maintains and operates the]. **The storage tank system must be registered with the Department in accordance with Subchapter A (relating to general provisions) and be maintained and operated** in compliance with the standards and requirements of the Department under the act and this chapter. Failure to comply with standards could result in administrative or other Departmental actions against the storage tank owner/operator.

(c) A person may continue to operate an existing storage tank system, **registered with the Department on or before October 11, 1997, when the tank system is operated** for its intended use, until the Department notifies the person to submit a permit application under this subchapter or the Department notifies the per-

son the tank system is deemed permitted, if the person maintains and operates the storage tank system in compliance with the act and this chapter.

(d) Operation of existing storage tank systems will be allowed to continue until the Department takes final action on the permit application requested in subsection (c) or the Department notifies the owner/operator that the tank system is deemed permitted.

(e) Operating permits will be renewed automatically on an annual basis concurrent with registration. There will be no additional fee or paperwork required beyond the registration requirements established in Subchapter A.

GENERAL OPERATING PERMITS

§ 245.222. Application requirements.

Applications for a general operating permit shall be submitted on a Department form. The application [shall] must certify the following:

(1) General requirements for all storage tank systems are as follows:

* * * * *

(ii) Tank handling and inspection activities are performed by Department certified individuals, as specified in § 245.21 (relating to tank handling and inspection requirements) and Subchapter B (relating to certification program for installers and inspectors of storage tanks and storage tank facilities).

(iii) The storage tank system is in compliance with applicable administrative, technical and operational requirements as specified in Subchapter E [or], Subchapter F or Subchapter G (relating to technical standards for underground storage tanks; [and] technical standards for aboveground storage tanks and facilities; and simplified program for small aboveground storage tanks).

* * * * *

SITE SPECIFIC INSTALLATION PERMITS

§ 245.231. Scope.

(a) Site specific installation permits are required prior to the construction, reconstruction or installation of one or more of the following:

* * * * *

(3) New highly hazardous substance tank systems.

(4) New underground field constructed storage tank systems.

(b) Site specific installation [permits] permit applications meeting the requirements in §§ 245.232(a)(1) and (2) and 245.236 (relating to general requirements; and public notice) are required to be approved prior to [the] construction, reconstruction or installation [of one or more of the following;]. Additional application requirements include the following:

(1) [New underground field constructed storage tank systems.] Large aboveground storage tank system at a new facility or existing small aboveground tank facility requires compliance with § 245.232(a)(3) and (4) and (b) (relating to general requirements).

(2) [New underground highly hazardous substance tanks.] Large aboveground storage tank

system at an existing large aboveground storage tank facility on new location requires compliance with § 245.232(a)(3) and (b).

(3) [New small aboveground highly hazardous substance tanks.] Large aboveground storage tank system at an existing large aboveground storage tank facility on the footprint of previous aboveground storage tank system requires compliance with § 245.232(b) and § 245.234(b) (relating to siting requirements).

(4) Small aboveground storage tank systems at a new large aboveground storage tank facility require compliance with § 245.232(a)(3) and (b).

(c) If the facility owner or operator can demonstrate that, on [October 11, 1997, either construction has commenced or the owner/operator has entered into contractual agreements for construction of a new storage tank or facility covered by this section] or before _____ (Editor's Note: The blank refers to the effective date of adoption of this proposal.), construction has commenced on an aboveground storage tank with a capacity greater than 30,000 gallons used or to be used for storing heating oil for consumptive use on the premises, the requirements of this section will not apply.

§ 245.232. General requirements.

* * * * *

(c) Applications for site specific installation permits shall be accompanied by the proper fee required by section 304(c) of the act (35 P. S. § 6021.304(c)) for aboveground storage tanks and section 504(c) of the act (35 P. S. § 6021.504(c)) for underground storage tanks.

§ 245.234. Siting requirements.

(a) The Department will not issue a site specific storage tank system or facility installation permit if:

* * * * *

(3) The Department determines that construction design criteria or engineering specifications submitted by a professional engineer are not in accordance with generally accepted sound engineering practices or existing conditions at the site require mitigation to properly support the tank systems and the applicant's proposed mitigation actions are not deemed adequate.

(b) The applicant shall provide the following additional information if appropriate:

* * * * *

(3) A professional engineer's construction design criteria and engineering specifications necessary to mitigate surface or subsurface conditions which may result in excessive tank system settlement or unstable support of the applicant's proposed tank systems.

§ 245.235. Environmental assessment.

* * * * *

(b) An environmental assessment in a permit application [shall] must include detailed analysis of the potential impact of the proposed facility on the environment, public health and public safety, including air quality, water quality, threatened or endangered species and water uses. The applicant shall consider environmen-

tal features such as recreational river corridors, State and Federal parks, historic and archaeological sites, National wildlife refuges, State and Federal natural areas, prime farmland, wetlands, special protection watersheds designated under Chapter 93 (relating to water quality standards), public water supplies and other features deemed appropriate by the Department or the applicant.

(c) The Department [, after consultation with appropriate governmental agencies and potentially affected persons,] will evaluate the assessment provided under subsection (a) to determine whether the proposed operation has the potential to cause environmental harm. The Department will consult with appropriate governmental agencies and potentially affected persons concerning potential environmental harm. If the Department determines that the proposed operation has that potential, it will notify the applicant in writing.

* * * * *

Subchapter D. CORRECTIVE ACTION PROCESS FOR OWNERS AND OPERATORS OF STORAGE TANKS AND STORAGE TANK FACILITIES AND OTHER RESPONSIBLE PARTIES

§ 245.311. Remedial action plan.

(a) Unless a site characterization report is submitted in accordance with § 245.310(b) (relating to site characterization report), the responsible party shall prepare and submit to the Department within 45 days of submission of a site characterization report required by § 245.310(a) selecting the background or Statewide health standard, within 45 days of deemed approval or receipt of a written approval of a site characterization report selecting the site-specific standard or within an alternative time frame as determined by the Department, two copies of a remedial action plan prior to implementation of the remedial action plan. The remedial action plan [shall] must be complete and concisely organized and [shall] contain the following elements, as necessary, based on the nature, extent, type, volume or complexity of the release:

* * * * *

(2) A copy of the plans relating to worker health and safety, management of wastes generated and quality assurance/quality control procedures, as they relate to the remedial action, if different from the plans submitted in accordance with § 245.310(a) [(27)] (25).

* * * * *

Subchapter E. TECHNICAL STANDARDS FOR UNDERGROUND STORAGE TANKS

GENERAL

§ 245.403. Applicability.

* * * * *

(c) **Temporary exclusions.** Existing tanks that become regulated due to the addition of new regulated substances in § 245.1 ((relating to definitions) (See the definition of "regulated substance" (i)(C)(I)–(III))) are subject to this subsection and shall be registered with the Department by _____ (Editor's Note: The blank refers to a date 60 days after the effective date of adoption of this proposal.). In addition, these tanks are temporarily excluded from the requirements in §§ 245.421, 245.422, 245.431, 245.432 and 245.441–446, respectively, until _____ (Editor's Note:

The blank refers to a date 3 years after the effective date of adoption of this proposal.)

§ 245.404. Variances.

When unique or peculiar circumstances make compliance with this subchapter technically impractical, infeasible or unsafe, the Department may, upon written application from the owner/operator of a storage tank system subject to this subchapter, grant a variance from one or more specific provisions of this subchapter:

* * * * *

(2) A written application for a variance shall be submitted to the Department and provide the following information:

* * * * *

(iii) The unique or peculiar conditions which make compliance with the sections identified in subparagraph (ii) technically impractical, infeasible or unsafe.

* * * * *

(3) New technologies may be granted a variance. New technologies shall be reviewed and appropriately documented by a professional engineer and documentation provided to the Department with the variance request.

(4) When granting the variance, the Department may impose specific conditions necessary to ensure the adequate protection of human health and the environment.

[(4)] (5) * * *

[(5)] (6) * * *

§ 245.405. Codes and standards.

[All regulated underground storage tank systems shall comply with applicable industry codes. By policy, the Department can recognize industry codes and practices which can be used to comply with this chapter. A list of industry codes and practices which may be used to comply with this subchapter may be obtained from the Department.]

(a) The following listed associations and their codes and standards shall be used in conjunction with manufacturer's specifications to comply with this subchapter:

- (1) American Concrete Institute (ACI)
- (2) American National Standards Institute (ANSI)
- (3) American Petroleum Institute (API)
- (4) American Society for Testing and Materials (ASTM)
- (5) Association of Composite Tanks (ACT)
- (6) Fiberglass Petroleum Tank and Pipe Institute
- (7) NACE International—The Corrosion Society (NACE)
- (8) National Fire Protection Association (NFPA)
- (9) National Leak Prevention Association (NLPA)
- (10) Petroleum Equipment Institute (PEI)
- (11) Steel Tank Institute (STI)
- (12) Underwriters Laboratory (UL)

(b) The most current or latest edition of the codes and standard shall be applied when used to meet the technical standards and requirements of

this subchapter. Other Nationally recognized associations and their codes and standards not referenced in this part may also be used to comply with this subchapter, when appropriate.

(c) When Nationally recognized codes and standards or manufacturer's specifications are updated, facilities or storage tank systems installed to previously existing standards prior to the update will not automatically be required to be upgraded to meet the new standards.

(d) Regulatory requirements prevail over codes and standards whenever there is a conflict.

FACILITY INSPECTIONS

§ 245.411. Inspection frequency.

(a) Inspection of tanks. Underground storage tank owners or operators shall have their underground storage tank facility inspected by a certified inspector at the frequency established in subsections (b)–(d). The inspection shall include, but not be limited to, [leak] release detection, assessment of the underground storage tank system and ancillary equipment, operation of overflow and spill prevention equipment where practicable, corrosion protection testing, or verification that corrosion protection is functional, and release prevention measures.

(b) Initial inspections.

(1) [Tank] Storage tank facilities with tank systems installed prior to December 1989, shall be inspected prior to October 11, 1999[, whichever date is later].

(2) [Tank] Newly installed storage tank systems [installed after October 11, 1997,] shall be inspected [within] between 6 to 12 months [of] after installation. If the facility ownership changes, an inspection of the facility shall be completed [within] between the first 6 to 12 months of operation unless another time frame is agreed to by the Department.

* * * * *

(c) Subsequent routine facility inspections.

[(1)] Subsequent facility inspections shall be conducted at least once every [5] 3 years (36 months) commencing after the last inspection[, except as provided in paragraph (2)].

[(2)] Facilities with total secondary containment of both piping and the tank shall be inspected at least once every 10 years commencing from the date of the last inspection.]

(d) Additional inspections and mandatory training. Inspections in addition to those in subsections (b) and (c) may be [requested in writing] required by the Department when the prior inspection determined release detection or corrosion protection violation(s) occurred, or when the Department determines the inspections are necessary to verify compliance with this subchapter. The Department may require facility owners and operators to successfully complete a release detection or operator maintenance training course when related violations are documented through an inspection.

UNDERGROUND STORAGE TANK SYSTEMS: DESIGN, CONSTRUCTION, INSTALLATION AND NOTIFICATION

§ 245.421. Performance standards for [new] underground storage tank systems.

(a) New underground storage tank systems.

(1) Underground storage tank systems installed after _____ (Editor's Note: The blank refers to the effective date of adoption of this proposal.) must have total secondary containment, which consists of double-walled tanks, double-walled piping and liquid-tight containment sumps, tank manway riser sumps and dispenser pan sumps that allow for release detection monitoring of the system. Also, tank systems installed with pressurized piping systems must be equipped with automatic line leak detectors that meet the requirements of § 245.445(1) (relating to methods of release detection for piping).

(2) At least 30 days prior to the installation of a new tank or a new underground storage tank system, or within another reasonable time agreed upon by the Department, owners and operators shall notify the Department of the proposed installation on a form provided by the Department.

(3) An owner or operator of a tank system changing from unregulated to regulated service shall provide certification or documentation that the tank system meets new tank system requirements.

(b) To prevent releases due to structural failure, corrosion or spills and overfills for as long as the underground storage tank system is used to store regulated substances, owners and operators of new and existing underground storage tank systems shall ensure that the system meets the following requirements:

(1) Tanks. A tank [shall] must be properly designed, and constructed. A tank or portion of a tank including the outer metallic wall of a double-walled tank that is underground and routinely contains product shall be protected from corrosion in accordance with a code of practice developed by a Nationally recognized association or independent testing laboratory, using one of the following methods:

* * * * *

(ii) The tank is constructed of steel and cathodically protected in the following manner:

* * * * *

(C) Impressed current systems are designed [to] by a corrosion expert and allow determination of current operating status as required in § 245.432(a)(3) (relating to operation and maintenance including corrosion protection).

* * * * *

(2) Piping. The piping and ancillary equipment that routinely [contains] contain regulated substances shall be protected from corrosion and deterioration. [Piping] New piping that routinely contains regulated substances must be double walled with liquid tight containment sumps and dispenser pan sumps installed in accordance with paragraph (4)(ii). Whenever more than 30% of the system piping is replaced, the entire piping for the tank system shall be replaced meeting the requirements of this sub-

section. The portions of the piping system, including joints, flexible connectors and ancillary equipment that [is] are in contact with the ground [shall] must be properly designed, constructed and protected from corrosion in accordance with a code of practice developed by a Nationally recognized association or independent testing laboratory using one of the following methods:

(i) The piping or component is constructed of nonmetallic material such as fiberglass reinforced plastic or other noncorrodible and UL listed material.

(ii) The piping or component is constructed of [steel] metal and cathodically protected in the following manner:

(A) The piping is coated with a suitable dielectric material. The wrapping of piping with tape or similar material alone does not meet this requirement.

* * * * *

(C) Impressed current systems are designed [to] by a corrosion expert and allow determination of current operating status as required in § 245.432(a)(3).

* * * * *

(3) Spill and overfill prevention equipment.

(i) Except as provided in subparagraph [(iii)] (iv), to prevent spilling and overflowing associated with product transfer to the underground storage tank system, owners and operators shall ensure that their systems have the following spill and overfill prevention equipment:

(A) Spill prevention equipment that will prevent release of product to the environment when the transfer hose is detached from the fill pipe—for example, a spill catchment basin or spill containment bucket.

(B) Overfill prevention equipment that will do one or more of the following:

* * * * *

(II) Alert the transfer operator when the tank is no more [more] than 90% full by restricting the flow into the tank or triggering a high-level alarm.

* * * * *

(iii) Ball float valves may not be used on suction pump systems having an air eliminator, or on any system having coaxial stage-1 vapor recovery systems or receiving pressurized pump deliveries.

(iv) Owners and operators are not required to use the spill and overfill prevention equipment specified in subparagraph (i) if the underground storage tank system is filled by transfers of no more than 25 gallons at one time.

(4) Installation.

(i) Tanks and piping shall be properly installed and system integrity tested in accordance with a code of practice developed by a Nationally recognized association or independent testing laboratory such as API 1615 and PEI RP100, and in accordance with the manufacturer's instructions.

(ii) Newly installed spill containment buckets, tank riser sumps, dispenser pans and containment sumps must be constructed to be liquid-tight, and shall be tested prior to use of the system to confirm liquid-tight construction using a hydrostatic test, vacuum test or other appropriate testing procedure.

(iii) Overfill prevention equipment shall be properly installed and tested in accordance with a code of practice developed by a Nationally recognized association, and in accordance with manufacturer's instructions. When ball float valves are used, the valve shall be installed with extractor fitting and ball floats must be readily accessible (not requiring excavation) for removal and operational verification.

[(5)](c) * * *

§ 245.422. Upgrading of existing underground storage tank systems.

* * * * *

(b) Tank upgrading requirements. Steel tanks shall be upgraded to meet one of the following requirements in accordance with a code of practice developed by a Nationally recognized association or independent testing laboratory:

(1) Interior lining. A tank may only be upgraded by internal lining [if the] prior to _____ (Editor's Note: The blank refers to the effective date of adoption of this proposal.). The following conditions [are] of existing lined tanks shall be met:

(i) The lining [is] was installed in accordance with § 245.434 (relating to repairs allowed).

(ii) Within 10 years after lining, and every 5 years thereafter, the lined tank is internally [inspected] evaluated by, or under the direct onsite supervision of, a certified tank liner (TL) or by a professional engineer adhering to the evaluation process developed by a National association and found to be structurally sound with the lining still performing in accordance with original design specifications. The evaluation findings shall be documented on a form approved by the Department and shall be maintained at the facility for the duration of the tank's operating life.

(iii) Lined tank systems that do not meet original design specifications or have not been evaluated as required in subparagraph (ii) shall be emptied immediately, removed from service and permanently closed in accordance with §§ 245.451 and 245.452 (relating to temporary closure, and permanent closure; and changes-in-service).

* * * * *

(3) Internal lining combined with cathodic protection. A tank [may be] upgraded [by] prior to _____ (Editor's Note: The blank refers to the effective date of adoption of this proposal.) having both internal lining and cathodic protection [if] must meet the following [apply]:

(i) The lining [is] was installed in accordance with [the requirements of] § 245.434.

(ii) The cathodic protection system meets § 245.421 (b)(1)(ii)(B)—(D).

(c) Piping upgrading requirements. Metal piping and fittings that routinely contain regulated substances and are in contact with the ground [shall] must be one or more of the following:

(1) Replaced with piping meeting the requirements of new piping in § 245.421(b)(2)(i) and (ii).

(2) Cathodically protected in accordance with a code of practice developed by a Nationally recognized association or independent testing laboratory and meets the requirements of § 245.421(b)(2)(ii)(B)—(D).

(3) Installed at a site that is determined to not be corrosive enough to cause a release due to corrosion for the remaining operating life of the piping under § 245.421(b)(2)(iii).

(d) *Spill and overflow prevention equipment.* To prevent spilling and overflowing associated with product transfer to the underground storage tank system, existing underground storage tank systems [shall] must comply with new underground storage tank system spill and overflow prevention equipment requirements in § 245.421(b)(3) and (4).

(e) *Release detection equipment.*

(1) When release detection equipment is modified or replaced on an underground storage tank system greater than 3,000 gallons capacity, an automatic tank gauge certified in accordance with § 245.441(a) (referring to general requirements for underground storage tank systems) must be installed as the release detection method unless interstitial monitoring is used for release detection in accordance with § 245.444(7).

(2) Underground storage tank systems using an interstitial monitor or an electronic line leak detection system in accordance with § 245.445(1) (relating to methods of release detection for piping), must upgrade from an alarm to a automatic pump shut-off device before _____ (*Editor's Note: The blank refers to a date 2 years following the effective date of adoption of this proposal.*)

(3) On an underground storage tank system, with a capacity greater than 3,000 gallons, a mechanical line leak detection device that alerts the operator to the presence of a leak by slowing or restricting the flow of regulated substance to the dispenser, must be upgraded with an automatic line leak detection system with an automatic pump shut-off device meeting the requirements of § 245.445(1) before _____ (*Editor's Note: The blank refers to a date 5 years following the effective date of adoption of this proposal.*)

§ 245.423. Registration requirements.

* * * * *

(f) Every owner, including a new owner of an existing tank system, shall [complete an amended registration form, provided by the Department, when one or more of the following conditions occur:] comply with tank registration requirements in Subchapter A (relating to general provisions).

- [(1) Change of tank ownership—new owner only.
- (2) Installation of a new tank.
- (3) Closure of a tank system or component.
- (4) Change in tank system service such as, but not limited to, temporary closure or change to an unregulated substance.]

§ 245.425. Reuse of removed tanks.

A storage tank removed from the ground may be reused as a regulated underground storage tank under the following circumstances:

(1) [The tank is installed by a certified installer.

(2)] The tank [has been] was properly closed in accordance with § 245.452 (relating to permanent closure and changes-in-service) at the site where previously used.

(2) The tank is installed at the new site by a certified installer.

(3) The new installation meets the requirements of § [245.422 (relating to the upgrading of existing underground storage tank systems)] 245.421 (relating to performance standards for underground storage tank systems).

* * * * *

(5) Either the manufacturer, a person certified by the manufacturer or a registered professional engineer warrants that the tank meets the requirements of § 245.421 [(1)](a) [(relating to performance standards for underground storage tank systems)].

GENERAL OPERATING REQUIREMENTS

§ 245.432. Operation and maintenance including corrosion protection.

(a) Owners and operators of steel underground storage tank systems with corrosion protection shall comply with the following requirements to ensure that releases due to corrosion are prevented for as long as the underground storage tank system is used to store regulated substances:

* * * * *

(3) Underground storage tank systems with impressed current cathodic protection systems shall be inspected or checked by the operator every 60 days to ensure the equipment is running properly. As a minimum, the operator shall document the date checked, annotate the system's functioning status, and for systems equipped with a direct current readout meter, record the amount of current indicated on the meter.

* * * * *

[(5)] (b) * * *

[(6) Line] (c) Required equipment, including but not limited to, line leak detectors, product sensors and probes, dispenser pans, containment sumps, measuring devices (including gauge sticks), gauges, corrosion protection, spill prevention, overflow prevention and other appurtenances whose failure could contribute to a release of product, shall be maintained in a good state of repair [and shall] to ensure they function as designed.

(d) Tanks which have been lined and have not had corrosion protection added in accordance with § 245.422(b)(2) shall have the lining evaluated under the direct, onsite supervision of a TL certified tank installer or by a professional engineer.

(1) Evaluations must adhere to an evaluation process developed by a National association identified in § 245.405 (relating to codes and standards) as follows:

- (i) Ten years after lining installation.
- (ii) Every 5 years after the preceding evaluation.

(2) Each evaluation finding shall be documented on a form approved by the Department and shall be maintained at the facility for the duration of the tank's operating life.

(e) Lined tank systems that do not meet original design specifications or have not been evaluated as required in subsection (d)(1) and (2) shall be emptied immediately, removed from service and permanently closed in accordance with §§ 245.451 and 245.452 (relating to temporary closure, and permanent closure; and changes-in-service).

(f) Primary and secondary containment structure must be maintained in a leak free condition. If infiltration or a release is detected in an interstice, the defective component shall be repaired in accordance with § 245.434 (relating to repairs allowed). Repairs, including those performed to stop infiltration, shall be tested in accordance with § 245.434(5).

(g) A check for water in petroleum tanks shall be performed monthly and excess water shall be promptly removed as necessary. Water may not exceed the tank manufacturer's recommendations or more than 2 inches of accumulation in the bottom of the tank, whichever is less. Excess water shall be properly disposed in accordance with applicable State and Federal requirements.

§ 245.434. Repairs allowed.

Owners and operators of underground storage tank systems shall ensure that repairs will prevent releases due to structural failure or corrosion as long as the underground storage tank system is used to store regulated substances. The repairs [shall] must meet the following requirements:

* * * * *

(5) Tanks, **containment sumps** and piping repaired in response to a release shall be tightness tested in accordance with §§ 245.444(3), **245.421(b)(4)(ii)** and 245.445(2) (relating to methods of release detection for tanks; **performance standards for underground storage tank systems**; and methods of release detection for piping), **respectively**, prior to placing the system back into service except as provided as follows:

* * * * *

(7) Underground storage tank system owners and operators shall maintain records of each repair **including those** in response to a release, for the remaining operating life of the underground storage tank system [**that demonstrate compliance with this section**].

§ 245.435. Reporting and recordkeeping.

(a) Owners and operators of underground storage tank systems shall cooperate fully with inspections, monitoring and testing conducted by the Department, certified installers or certified inspectors, as well as requests for document submission, testing and monitoring by the owner or operator under section 107(c) of the act (35 P. S. § 6201.107(c)).

(b) Owners and operators shall maintain required records. If records are maintained offsite, the records shall be easily obtained and provided upon request.

(1) *Reporting.* Owners and operators shall submit the following applicable information to the Department:

(i) Notification in accordance with § 245.41 (relating to tank registration requirements) for underground storage tank systems [(§ 245.423 (relating to registration requirements)), which includes], including, but not limited to, change of ownership, closure of a tank system, change of substance stored and change of tank status, and certification of installation for new underground storage tank systems (§ 245.421[(5)](c) (relating to performance standards for [new] underground storage tank systems)).

* * * * *

(2) [*Recordkeeping*] **Permanent recordkeeping.** Owners and operators shall maintain records for new systems and available records for existing systems for the operational life of the tank system and retain the records for a minimum of 1 year after the tank system has been removed. Permanent records include the following [information]:

(i) A corrosion expert's analysis of site corrosion potential if corrosion protection equipment is not used (§ 245.421(b)(1)(iv) and (2)(iii) and § 245.422(b)(2)(iv) and (c)(3) (relating to upgrading of existing underground storage tank systems)).

(ii) The corrosion expert's design of an impressed current system in accordance with §§ 245.421(b)(2)(ii)(B) and 245.422(b)(2) and (c)(2).

(iii) Documentation of tank system installation, system modification and tank upgrade activities.

(iv) Tank system assessment records prior to upgrading in accordance with § 245.422(b).

(v) Documentation of [operation of corrosion protection equipment] the installation testing and commissioning reports required for corrosion protection systems by manufacturers and National standards in accordance with [(§ 245.432 (relating to operation and maintenance including corrosion protection))] .

[(iii)](vi) Documentation of underground storage tank system repairs **including those** in response to a release (§ 245.434(6) (relating to repairs allowed)).

(vii) Documentation to demonstrate that containment sumps and dispenser pans installed or repaired after _____ (*Editor's Note: The blank refers to the effective date of adoption of this proposal.*) were tested and verified to be liquid tight in accordance with §§ 245.421(b)(4) and 245.434(5).

(viii) Tank lining evaluation reports (§ 245.432(d) and (e)).

(ix) Documentation showing Department approval for a variance or alternate leak detection method (§§ 245.404 and 245.443 (relating to variances; and requirements for hazardous substance underground storage tank systems)).

(3) Temporary records shall be maintained as follows:

(i) The current Storage Tank Registration/Permit Certificate.

[(iv) Current compliance with] (ii) Tank and pipe release detection [requirements] records for the past 12 months, including written certifications

or performance claims for the release detection methods in use and documentation of investigations of suspected releases (§§ 245.446 and 245.304 (relating to release detection recordkeeping; and investigation of suspected releases)).

(iii) The last annual check/testing, and maintenance records of leak detection equipment including probes, monitors, line leak detectors, and automatic tank gauges that verify they are working properly and tested as required by the equipment manufacturers.

(iv) Documentation of the last two impressed current cathodic protection system inspection checks for each 60 day test period (§ 245.432 (relating to operation and maintenance including corrosion protection)).

(v) The last cathodic protection survey, done at 3 year intervals, on impressed current and galvanic cathodic protection systems in accordance with (§ 245.432).

[(v)] (vi) * * *

[(vi)] (vii) A properly completed closure report required under [() § 245.452(f)] .

[(3) Availability of records. Owners and operators shall keep the records required at one of the following:

(i) At the underground storage tank site and immediately available for inspection by the Department and certified inspectors.

(ii) At a readily available alternative site and be provided for inspection to the Department upon request.]

RELEASE DETECTION

§ 245.441. General requirements for underground storage tank systems.

* * * * *

(c) Owners and operators of underground storage tank systems shall comply with the release detection requirements of this [subpart by December 22 of the year listed in the following table:] subchapter.

[SCHEDULE FOR PHASE-IN RELEASE DETECTION

Year System Was Installed	Year When Release Detection is Required (by December 22 of the year indicated)				
	1989	1990	1991	1992	1993
Before 1965 or date unknown	RD	P			
1965-69		P/RD			
1970-74		P	RD		
1975-79		P		RD	
1980-88		P			RD

New tanks (after December 22, 1988) immediately upon installation.

P = Shall begin release detection for all pressurized piping in accordance with § 245.442(2)(i) (relating to requirements for petroleum underground storage tank systems).

RD = Shall begin release detection for tanks and suction piping in accordance with §§ 245.442(1), (2)(ii) and 245.443 (relating to requirements for petroleum underground storage tank systems; and requirements for hazardous substance underground storage tank systems).]

(d) An existing tank system that cannot apply a method of release detection that complies with [the requirements of] this subchapter [shall] must immediately complete the closure procedures in §§ 245.451—245.455 (relating to out-of-service underground storage tank systems and closure) [by the date on which release detection is required for that underground storage tank system under subsection (c)].

(e) For existing tank systems equipped with double-walled piping that routinely contains regulated substance, and containment sumps at the piping junctures and dispensers, the containment sumps, dispenser pan sumps and piping interstices of these systems shall be monitored monthly when practicable and monthly records maintained for the last 12 months of monitoring.

§ 245.442. Requirements for petroleum underground storage tank systems.

(a) Owners and operators of underground storage tank systems installed after _____ (Editor's Note: The blank refers to the effective date of adoption of this proposal.) shall perform interstitial

monitoring, at least once every 30 days, in accordance with § 245.444(7) (relating to methods of release detection for tanks) of both the tank and underground piping that routinely contains a product (regulated substance). In addition, pressurized piping for these systems must be equipped and operated with an automatic line leak detector with an automatic pump shut off device in accordance with § 245.445(1) (relating to methods of release detection for piping).

(b) Owners and operators of petroleum underground storage tank systems installed on or before _____ (Editor's Note: The blank refers to the effective date of adoption of this proposal.) shall provide release detection for tanks and piping as follows:

(1) Tanks. Tanks shall be monitored at least every 30 days for releases using one of the methods listed in § 245.444(4)—(9) [(relating to methods of release detection for tanks)] except that:

(i) Underground storage tank systems that meet the performance standards in § 245.421 [or § 245.422] (relating to performance standards for [new] underground storage tank systems [; and upgrading of exist-

ing underground storage tank systems], [and the] may use monthly inventory control requirements in § 245.444(1) or (2), [may use] and tank tightness testing (conducted in accordance with § 245.444(3)) [at least every 5 years until December 22, 1998, or] until 10 years after the tank [is] was first installed or upgraded under § 245.422(b), [whichever is later] but not later than December 22, 2008.

(ii) Underground storage tank systems [that do not meet the performance standards in § 245.421 or § 245.422 may use monthly inventory controls (conducted in accordance with § 245.444(1) or (2)) and annual tank tightness testing (conducted in accordance with § 245.444(3)) until December 22, 1998, when the tank shall be upgraded under § 245.422 or permanently closed under § 245.452 (relating to permanent closure and changes-in-service)] with a capacity of 1,001 to 2,000 gallons may use manual tank gauging, conducted in accordance with § 245.444(2) and a tank tightness test at least every 5 years until _____ (Editor's Note: The blank refers to a date 10 years from the effective date of adoption of this proposal).

(iii) Tanks with a capacity of 550 gallons or less may use manual tank gauging, conducted in accordance with § 245.444(2) as long as they continue to meet requirements of this subchapter.

(iv) Tanks with a capacity of 551 to 1,000 gallons using the longer test times specified may use manual tank gauging, conducted in accordance with § 245.444(2) as long as they continue to meet requirements of this subchapter.

(v) Tank systems must meet the upgrade requirements of § 245.422(e) as appropriate.

* * * * *

§ 245.444. Methods of release detection for tanks.

Each method of release detection for tanks used to meet the requirements of § 245.442 (relating to requirements for petroleum underground storage tank systems) shall be conducted in accordance with the following:

* * * * *

(3) Tank tightness testing. Tank tightness testing, or another test of equivalent performance, [shall] must be capable of detecting a 0.1 gallon per hour leak rate from any portion of the tank that routinely contains product while accounting for the effects of thermal expansion or contraction of the product, vapor pockets, tank deformation, evaporation or condensation, and the location of the water table. When an appropriate automatic tank gauge is used to meet this requirement, the tank must be filled to the overfill set point.

(4) Automatic tank gauging. Equipment for automatic tank gauging that tests for the loss of product and conducts inventory control [shall] must meet one of the following requirements:

* * * * *

(ii) For tank gauges installed prior to December 22, 1990, that do not meet the requirements of subparagraph (i), inventory control, or another test of equivalent performance, shall also be conducted in accordance with paragraph (1). Tank gauges shall be replaced or be certified by _____ (Editor's Note: The

blank refers to a date 1 year after the effective date of adoption of this proposal).

(5) Vapor monitoring. Testing or monitoring for vapors within the soil gas of the excavation zone [shall] must meet the following requirements:

* * * * *

(vi) In the underground storage tank excavation zone, the site is evaluated by a professional geologist to ensure compliance with [the requirements in] subparagraphs (i)—(iv) and to establish the number and positioning of monitoring wells that will detect releases within the excavation zone from any portion of the tank that routinely contains product. The written site evaluation report authenticated by the person completing the evaluation shall be maintained at the facility for the duration of the leak detection method.

* * * * *

(6) Groundwater monitoring. Testing or monitoring for liquids on the groundwater [shall] must meet the following requirements:

* * * * *

(vii) Within and immediately below the underground storage tank system excavation zone, the site is evaluated by a professional geologist to ensure compliance with subparagraphs (i)—(v) and to establish the number and positioning of monitoring wells or devices that will detect releases from any portion of the tank that routinely contains product. The written site evaluation report authenticated by the person completing the evaluation shall be maintained at the facility for the duration of the leak detection method.

* * * * *

§ 245.445. Methods of release detection for piping.

Each method of release detection for piping used to meet the requirements of § 245.442 (relating to requirements for petroleum underground storage tank systems) shall be conducted in accordance with the following:

(1) Automatic line leak detectors. Methods which alert the operator to the presence of a leak by [restricting or] automatically shutting off the flow of regulated substances through piping [or triggering an audible or visual alarm] may be used only if they detect leaks of 3 gallons per hour at 10 pounds per square inch line pressure within 1 hour. An annual test of the operation of the leak detector shall be conducted in accordance with the manufacturer's requirements. Systems installed after _____ (Editor's Note: The blank refers to the effective date of adoption of this proposal.) must meet this requirement at installation. Systems installed on or before _____ (Editor's Note: The blank refers to the effective date of adoption of this proposal.) that do not meet this requirement must upgrade to line leak detectors with an automatic pump shut-off device within the time frame specified in § 245.422(e) (relating to upgrading of existing underground storage tank systems).

* * * * *

OUT-OF-SERVICE UNDERGROUND STORAGE TANK SYSTEMS AND CLOSURE

§ 245.451. Temporary closure (out-of-service).

(a) When an underground storage tank system is temporarily closed [, owners] (out-of-service), the owner

shall complete and submit an amended registration form to the Department within 30 days in accordance with § 245.41 (tank registration requirements).

(b) Owners and operators shall continue operation and maintenance of corrosion protection in accordance with § 245.432 (relating to operation and maintenance including corrosion protection) [, and release detection in accordance with §§ 245.441—245.446 (relating to release detection). Subchapter D (relating to corrective action process for owners and operators of storage tanks and storage tank facilities and other responsible parties) shall be complied with if a release is suspected or confirmed] while the tank system is temporarily out-of-service. Records shall continue to be kept in accordance with § 245.435 (relating to recordkeeping).

(c) Owners and operators shall immediately empty a tank being placed temporarily out-of-service. Removed contents shall be reused, treated or disposed of in accordance with State and Federal requirements. Release detection is not required as long as the underground storage tank system is empty. The underground storage tank system is empty when all materials have been removed using commonly employed practices so that no more than 2.5 centimeters (1 inch) of residue, or 0.3% by weight of the total capacity of the underground storage tank system, remain in the system. Owners and operators shall maintain release detection records in accordance with § 245.446(2) (relating to release detection recordkeeping) for the most recent 12 month period of active operation.

(d) Subchapter D (relating to corrective action process for owners and operators of storage tanks and storage tank facilities and other responsible parties) shall be complied with if a release is suspected or confirmed.

(e) Inspection requirements shall be maintained as specified in § 245.411 (relating to inspection frequency).

[(b)] (f) * * * *

* * * * *

[(c)] (g) When an underground storage tank system is temporarily closed for more than 12 months, owners and operators shall [permanently]:

(1) Permanently close the underground storage tank system if it does not meet either performance standards in § 245.421 (relating to performance standards for new underground storage tank systems) for new underground storage tank systems or the upgrading requirements in § 245.422 (relating to upgrading of existing underground storage tank systems), except that the spill and overflow equipment requirements do not have to be met.

(2) Owners and operators shall permanently close the substandard underground storage tank systems at the end of this 12 month period in accordance with §§ 245.452—245.455, unless the Department provides an extension of the 12-month temporary closure period.

(3) Owners and operators shall complete a site assessment in accordance with § 245.453 (relating to assessing the site at closure or change-in-service) before an extension may be applied for.

(h) Underground storage tank systems that meet performance standards in § 245.421 or the upgrading requirements in § 245.422 shall be permanently closed within 3 years of being placed temporarily out-of-service unless the Department grants an extension to this temporary closure period.

**Subchapter F. TECHNICAL STANDARDS FOR ABOVEGROUND STORAGE TANKS AND FACILITIES
GENERAL**

§ 245.503. Variances.

When unique or peculiar circumstances make compliance with this subchapter technically impractical, infeasible or unsafe, the Department may, upon written application from the owner/operator of a storage tank system subject to this subchapter, grant a variance from one or more specific provisions of this subchapter.

* * * * *

(2) A written application for a variance shall be submitted to the Department and provide the following information:

* * * * *

(iii) The unique or peculiar conditions which make compliance with the sections identified in subparagraph (ii) technically impractical, infeasible or unsafe.

* * * * *

(3) New technologies may be granted a variance. New technologies shall be reviewed and appropriately documented by a professional engineer and documentation provided to the Department with the variance request.

(4) The Department will not grant a variance which would result in regulatory controls less stringent than other applicable Federal or State regulations, such as 37 Pa. Code Part I, Subpart B (relating to flammable and combustible liquids) and 40 CFR Part 112 (relating to oil pollution prevention).

[(4)] (5) * * *

[(5)] (6) * * *

§ 245.504. Referenced organizations.

(a) Nationally recognized associations which are referenced throughout this subchapter are as follows:

* * * * *

(7) [National Association of Corrosion Engineers] NACE International—The Corrosion Society (NACE).

* * * * *

(10) [Steel Structures Painting Council] SSPC—The Society for Protective Coatings (SSPC).

* * * * *

(c) When Nationally recognized codes and standards or manufacturer's specifications are updated, facilities or storage tank systems installed to previously existing standards prior to the update, will not automatically be required to be upgraded to meet the new standard.

§ 245.505. Applicability.

Existing tanks that became regulated due to the addition of new regulated substances as defined in § 245.1 (relating to definitions) (See definition of

“regulated substance” (i)(C)(I)—(III)), and the regulation of aboveground tanks greater than 30,000 gallons capacity, storing heating oil that is consumed on the premises (See definition of “consumptive use” in § 245.1) are subject to the requirements of this subsection and shall be registered with the Department by _____ (*Editor’s Note:* The blank refers to a date 60 days after the effective date of adoption of this proposal.). In addition, these tanks are temporarily excluded from the following requirements:

(1) Monitoring requirements in § 245.541(c) (relating to overflow prevention requirements) until _____ (*Editor’s Note:* The blank refers to a date 3 years after the effective date of adoption of this proposal.).

(2) In-service inspection requirements in § 245.552 (relating to in-service inspections) until within 5 years of the date of construction or the date of the last inspection or by _____ (*Editor’s Note:* The blank refers to a date 3 years after the effective date of adoption of this proposal.) whichever is greater.

(3) Out-of-service inspection requirements in § 245.553 (relating to out-of-service inspections) until _____ (*Editor’s Note:* The blank refers to a date 3 years after the effective date of adoption of this proposal.) for tanks not previously inspected or 10 years after construction for tanks without known corrosion rates, whichever is greater, or within projected inspection intervals based on corrosion rates determined at the last out-of-service inspection, but not to exceed 20 years from the date of the last inspection.

OPERATIONS AND MAINTENANCE

§ 245.514. Security.

An owner/operator is responsible to assure that appropriate security measures and procedures based on the facility location are established and implemented to protect the environment and the public. These security measures and procedures may include, but are not limited to, **monitoring**, fencing, lighting, access control, locked entrances and securing of valves and dispensers.

DESIGN, CONSTRUCTION AND INSTALLATION

§ 245.522. New aboveground tank installations and reconstructions.

(a) Tanks [**shall**] **must** be designed and constructed in accordance with an appropriate current code of practice developed by Nationally recognized associations such as UL, ACI, API, ASME, ASTM, **STI** or NACE **and will follow applicable engineering specifications.**

* * * * *

(d) Reconstruction of tanks [**shall**] **must** follow the current codes of practice developed by Nationally recognized associations **and be accomplished in accordance with sound engineering practices.** Reconstructed tanks [**shall**] **must** be inspected and hydrostatically tested before being placed into service. Reconstructed tanks [**shall**] **must** meet or exceed requirements specified in § 245.521 (relating to performance standards for aboveground storage tanks). Hydrostatic test fluids shall be discharged or disposed of in accordance with State and Federal requirements.

* * * * *

(f) The Department may require the tank owner to submit documentation of construction design criteria and engineering specifications for review.

§ 245.523. Aboveground storage tanks in underground vaults.

The following requirements shall be met when an owner or operator chooses to install an aboveground storage tank in an underground vault.

* * * * *

(11) **Underground piping distribution systems for each tank system used to dispense class I or class II motor fuels for resale must be provided with release detection equivalent to underground piping release detection addressed in § 245.445 (relating to methods of release detection for piping) and be appropriately monitored.**

§ 245.524. Aboveground tank modifications.

(a) Modifications shall be designed and implemented in accordance with current codes of practice developed by Nationally recognized associations such as API, ACI, ASME, ASTM, NACE, **STI** or UL.

* * * * *

(d) The Department may require the tank owner to submit documentation of construction modification design criteria and engineering specifications for review.

CORROSION AND DETERIORATION PREVENTION

§ 245.534. Interior linings and coatings.

* * * * *

(c) **Interior linings or coatings shall be inspected by a third-party, Department-certified, aboveground storage tank inspector at installation, when undergoing a major modification and at least every 10 years or as warranted or recommended by the manufacturer or design engineer.**

RELEASE PREVENTION AND LEAK DETECTION

§ 245.541. Overflow prevention requirements.

(a) [**Owner/operators**] **An owner/operator** shall ensure that releases from overfills do not occur. Transfer of stored substance may not exceed the volume available in the receiving tank and the transfer shall be adequately monitored. Immediate action shall be taken to stop the flow of regulated substance prior to exceeding tank capacity or in the event that an equipment failure occurs.

(b) Tanks [**installed after October 11, 1997, shall**] **must** be installed with the following:

* * * * *

(2) A high-level alarm [**and**] **with** an automatic high-level cut-off device or a high-level alarm [**and**] **with** a manned operator shutdown procedure in operation.

* * * * *

(d) An existing tank system which is taken out of service to perform a scheduled out-of-service inspection or a major modification to the tank shall be upgraded with a high-level alarm [**and**] **with** a cut-off device or a high-level alarm [**and**] **with** a manned operator shutdown procedure prior to being put back in service.

(e) An existing tank system which has not been required to be taken out of service to perform a scheduled inspection or modification shall be upgraded with a high-level alarm with a cut-off device or a high-level alarm with a manned operator shutdown procedure by _____ (Editor's Note: The blank refers to a date 3 years after the effective date of adoption of this proposal).

§ 245.542. Containment requirements for above-ground storage tank systems.

* * * * *

(c) Secondary containment under the tank bottom and around underground piping [shall] must be designed to direct any release to a monitoring point to meet leak detection requirements. Secondary containment shall be provided on a new tank at installation, and shall be provided on an existing tank at reconstruction or relocation of the tank or when the tank floor is replaced. Permeability of the secondary containment [shall] must be less than [1 x 10⁻⁷] 1 x 10⁻⁷ cm/sec at anticipated hydrostatic head and be verified at the time of installation.

(d) Aboveground tanks [shall] must have emergency containment structures, such as dike fields, curbing and containment collection systems, which contain releases from overfills, leaks and spills, when a new tank system is installed or at the next out-of-service inspection for existing tank systems as established in § 245.553 (d) (relating to out-of-service inspections) or by _____ (Editor's Note: The blank refers to a date 3 years after the effective date of adoption of this proposal), whichever occurs first.

(1) Permeability of [new] newly installed or replacement emergency containment structures [installed after October 11, 1997, shall] must be less than 1 x 10⁻⁶ cm/sec at anticipated hydrostatic head and be of sufficient thickness to prevent the released substance from penetrating the containment structure for a minimum of 72 hours, and until the release can be detected and recovered.

(2) Emergency containment structures for existing aboveground storage tanks shall meet one of the following standards by _____ (Editor's Note: The blank refers to a date 3 years after the effective date of adoption of this proposal.) or at the next out-of-service inspection, prior to the tank being placed back into service, whichever occurs first.

* * * * *

(ii) Verification by a professional engineer that the emergency containment structure, coupled with the tank monitoring program and response plan is capable of detecting and recovering a release and is designed to prevent contamination of the waters of this Commonwealth. Verification shall be conducted in a manner consistent with the Department's technical document entitled "Verification of Emergency Containment Structures for Aboveground Storage Tanks" and should include determination of the containment structure permeability.

(3) Verification of the containment structure is valid until conditions at the site, monitoring program, response plan or procedures change.

(4) All transfers of regulated substances to a tank within the emergency containment shall be monitored by designated personnel for the duration of the transfer.

* * * * *

§ 245.543. Leak detection requirements.

(a) Aboveground tank systems [installed after October 11, 1997,] shall [provide] be provided a method of leak detection at installation that is capable of detecting a release. The leak detection method shall be monitored at least monthly and shall be installed, calibrated, operated and maintained in accordance with industry practices and manufacturer's specifications.

* * * * *

(c) Existing aboveground storage tanks without secondary containment under the bottom of the tank that are in contact with the soil, such as vertical flat bottom tanks, and do not have cathodic protection or an internal lining shall be tested for tightness at the next scheduled service inspection [after October 11, 1997,] consistent with subsection (d) and continue testing for tightness at each service inspection thereafter, until the tank is upgraded.

(d) Tank test for tightness shall be based on a scientific or statistical method and procedure. The test method and procedure shall be third-party certified with a specific leak detection rate or a method and procedure that is recognized by a National association, such as API Publication 334 Guide to Leak Detection in Aboveground Storage Tanks. The test shall be performed by a third-party expert qualified in the test procedure and not an employee of the tank owner.

(e) * * *

ABOVEGROUND STORAGE TANK INSPECTIONS

§ 245.552. In-service inspections.

(a) The in-service inspection shall follow the guidelines of a Nationally recognized association such as API 653 [and], API 570 and applicable engineering criteria.

(b) The in-service inspection shall evaluate the following:

* * * * *

(9) Tank system integrity and suitability for service.

(c) Inspection information shall be submitted to the Department on a form provided by the Department and shall include the results of the evaluation in subsection (b) and the following:

* * * * *

(3) The next inspection schedule based on the API 653 calculated service life method or 1/4 of the corrosion rate life with a maximum of 5 years. Other site specific conditions, for example, maintenance practices, previous repairs, the nature of the substance stored or soil conditions that may affect corrosion rate life or tank system integrity and should be considered when projecting tank service life and the next inspection interval.

* * * * *

(e) Inspection recommendations shall be addressed and remedied as appropriate. When substantial modifications are necessary to correct deficiencies, they shall be made in accordance with manufacturer's specifications and engineering design criteria. The Department may require submission and review of all documentation relating to these remedies. Required tank handling activities are reported to the

Department by the certified installer. Tank handling activities involving major modifications shall also be inspected by a certified aboveground storage tank inspector and reported to the Department.

* * * * *

§ 245.553. Out-of-service inspections.

(a) Inspections shall follow the guidelines of a Nationally recognized association such as *API 653*, *API 570* or ASME and applicable engineering criteria.

(b) The out-of-service inspection shall evaluate the following:

* * * * *

(11) Tank system integrity and suitability for service.

(c) The tank bottom evaluation shall be based on a scientific or statistical procedure encompassing appropriate methods of nondestructive examination. The evaluation must be representative of the whole floor when practicable, excluding removal of liners, heating coils or other appurtenances.

(d) Inspection information shall be submitted to the Department on a form provided by the Department and shall include the results of subsection (b) and the following:

* * * * *

(3) The schedule for next out-of-service inspection, based on the *API 653* calculated service life method or 1/2 of the corrosion rate life, with a maximum of 20 years between inspections. Other site specific conditions, for example, maintenance practices, previous repairs, internal linings, the nature of the substance stored or soil conditions that may affect corrosion rate life and should be considered when projecting tank service life and the next inspection interval.

* * * * *

[(d)] (e) * * *

* * * * *

(2) Existing tanks shall be initially inspected as follows:

* * * * *

(ii) If corrosion rates can be determined or are known, tanks shall be inspected at their *API 653* calculated service life method or 1/2 the corrosion rate life, from installation or previous out-of-service inspection or by October 11, 2000, whichever is later.

(3) Tanks shall have an out-of-service inspection at their *API 653* calculated service life method or 1/2 of the corrosion rate life, with a maximum of 20 years from the last out-of-service inspection.

[(e)](f) Deficiencies shall be remedied before the tank is returned to service. When substantial modifications are necessary to correct deficiencies, they shall be made in accordance with manufacturer's specifications and engineering design criteria. The Department may require submission and review documentation relating to these remedies. Required tank handling activities are reported to the Department by the certified installer. Tank handling activities involving major modifications shall also be inspected by a certified aboveground storage tank inspector and reported to the Department.

[(f)](g) * * *

[(g)](h) * * *

§ 245.554. Installation and modification inspections.

* * * * *

(b) Major modifications shall be inspected by a Department certified inspector at the time of modification under § 245.524 (relating to aboveground tank modifications) and a current codes of practice developed by Nationally recognized associations prior to being put back in service. The inspection report shall be kept for the operational life of the tank. When substantial modifications are made to the tank floor, the next inspection date projections shall be determined based on the condition of the floor subsequent to those modifications and reported to the Department by the certified inspector on the appropriate inspection form provided by the Department. Other site specific conditions, for example, maintenance practices, previous repairs, the nature of the substance stored or soil conditions that may affect corrosion rate life or tank system integrity should be considered when projecting tank service life and the next inspection interval.

* * * * *

CLOSURE AND REMOVAL FROM SERVICE REQUIREMENTS

§ 245.561. Permanent closure or change-in-service.

Before permanent closure or change-in-service is completed, the owner/operator shall comply with the following:

* * * * *

(3) The [owner/operators] owner/operator shall complete a site assessment to measure for the presence of any release from the storage tank system and a closure report. The assessment of the site shall be made after the notification to the Department and shall be conducted in a manner consistent with the Department's technical document entitled "Closure Requirements for Aboveground Storage Tank Systems" unless otherwise agreed upon or waived by the Department. The results of the site assessment and the closure report shall be retained for 3 years.

* * * * *

(6) Tank systems shall be cleaned, rendered free of hazardous vapors and ventilated if left onsite or tank systems shall be emptied and removed from the site in a manner consistent with current industry practices and Bureau of Land Recycling and Waste Management requirements such as Chapters [263] 263a and 299 (relating to [reserved] transporters of hazardous waste; and storage and transportation of residual waste).

* * * * *

(8) The [State Fire Marshal] appropriate State agency, county and local jurisdiction shall be notified if the tank is under a fire marshal, flammable and combustible liquids or other State agency, county or local jurisdiction permit.

* * * * *

Subchapter G. SIMPLIFIED PROGRAM FOR SMALL ABOVEGROUND STORAGE TANKS

GENERAL

§ 245.604. Referenced organizations.

(a) Nationally recognized associations which are referenced throughout this subchapter are as follows:

* * * * *

(5) [National Association of Corrosion Engineers] NACE International—The Corrosion Society (NACE).

* * * * *

(8) [Steel Structures Painting Council] SSPC—The Society for Protective Coatings (SSPC).

* * * * *

§ 245.605. Applicability.

Existing tanks that become regulated due to the addition of new regulated substances as defined in § 245.1 ((relating to definitions) (See “regulated substance” (i)(C)(I)—(III)) are subject to the requirements of this subsection and shall be registered with the Department by _____ (Editor’s Note: The blank refers to a date 60 days after the effective date of adoption of this proposal). In addition, these tanks are temporarily excluded from the following technical requirements:

(1) Emergency and secondary containment requirements in § 245.612(e) (relating to performance and design standards) until _____ (Editor’s Note: The blank refers to a date 3 years after the effective date of adoption of this proposal).

(2) A method of leak detection as required in § 245.613(a) (relating to monitoring standards) until _____ (Editor’s Note: The blank refers to a date 1 year after the effective date of adoption of this proposal).

(3) In-service inspections required in § 245.616 (c)(3) (relating to inspection requirements) until _____ (Editor’s Note: The blank refers to a date 3 years after the effective date of adoption of this proposal).

TECHNICAL REQUIREMENTS

§ 245.611. Testing requirements for new and substantially modified small aboveground storage tanks.

(a) Tanks [installed after October 11, 1997,] shall be tested for tightness at installation in accordance with current codes of practice developed by Nationally recognized associations and manufacturer’s specifications, except for manufactured, shop built tanks that meet the requirements of subsection (b). The testing shall be completed, as part of the installation process, prior to putting the tank in service.

* * * * *

§ 245.612. Performance and design standards.

(a) Tanks shall be designed, constructed and installed or modified in accordance with current codes of practice developed by Nationally recognized associations such as API, ASME, ASTM, ANSI, STI and UL and the manufacturer’s specifications. Tank handling activities shall

be accomplished by a Department certified aboveground storage tank installer or under the installer’s direct, onsite supervision and control.

* * * * *

(d) Tanks [installed after October 11, 1997,] shall be installed with secondary containment in or under the tank bottom to provide monitoring capability to satisfy leak detection requirements in § 245.613 (relating to monitoring standards) and emergency containment to contain possible releases, such as overfills, leaks and spills. Emergency containment shall be sufficiently impermeable to contain any potential release for a minimum of 72 hours and until the release can be detected and fully recovered in an expeditious manner. Double walled tanks may meet both emergency and secondary containment requirements when the tank system is operated with spill and overflow protection controls, including, but not limited to, the following:

(1) A spill containment bucket at the tank fill point or containment at the remote fill point.

(2) An overflow alarm and automatic cutoff device or shut down procedure.

(3) Block valves on product lines.

(4) Solenoid valve or anti-siphon device, if appropriate.

* * * * *

§ 245.614. Requirements for closure.

(a) Tank systems shall be cleaned, rendered free from hazardous vapors and ventilated if left onsite or shall be emptied and removed from the site in a manner consistent with current industry practices and Bureau of [Land Recycling and] Waste Management requirements such as Chapters [263] 263a and 299 (relating to [reserved] transporters of hazardous waste; and storage and transportation of residual waste). Piping shall be removed or capped and fill ports shall be secured, capped or dismantled.

* * * * *

§ 245.616. Inspection requirements.

(a) Required inspections of small aboveground storage tanks shall be conducted by Department certified aboveground storage tank inspectors according to a current Nationally recognized association’s code of practice such as API [and], STI or ASME [and] or according to manufacturer’s specifications and applicable engineering criteria. Deficiencies noted during the inspection shall be addressed and remedied as appropriate. When substantial modifications are necessary to correct deficiencies, they shall be made in accordance with manufacturer’s specifications and applicable engineering design criteria. The Department may require submission and review of documentation relating to these remedies. The associated tank handling activities are reported to the Department by a certified installer.

(b) [After October 11, 1997, small] Small aboveground field constructed storage tanks shall be inspected at installation, reconstruction or relocation and when a major modification activity is performed on the tank shell or the tank bottom plates.

(c) The owner/operator of small aboveground storage tanks storing regulated substances with a capacity greater than 5,000 gallons and owner/operator of small

aboveground storage tanks storing highly hazardous substances with a capacity greater than 1,100 gallons shall have in-service inspections conducted every 10 years or **[at 1/4 of the] more often when corrosion [rate life with a maximum of 10 years between inspections], deterioration or other specific conditions necessitate. Other specific conditions may include, but are not limited to, maintenance practices, previous repairs, the nature of the substance stored and coatings or linings that should be considered when projecting tank service life and the next inspection interval. Internally lined tanks and flat bottom tanks without an interstice or external access to the tank bottom may require further evaluation or internal examination.** Inspections shall be phased in for tanks without a previous inspection as follows:

* * * * *

(d) In-service inspections shall evaluate the following:

* * * * *

(9) Tank system integrity and suitability for service.

Subchapter H. FINANCIAL RESPONSIBILITY REQUIREMENTS FOR OWNERS AND OPERATORS OF UNDERGROUND STORAGE TANKS AND FACILITIES

§ 245.704. General requirements.

* * * * *

(b) An owner or operator of an underground storage tank shall have sufficient financial resources available to continuously meet the USTIF deductibles for both corrective action and third party liability as determined in accordance with § 245.707 (relating to coverage amounts for financial responsibility). **The deductible coverage must be in a method approved under section 701(b) of the act (35 P. S. § 6021.701(b)) including a guarantee, surety bond, qualification as a self-insurer, insurance or risk retention coverage, letter of credit, indemnity contract, trust fund, standby trust fund or other method approved by the Department.**

(c) **[Upon request of the Department, an owner or operator of an underground storage tank shall submit a written certification or provide other written evidence] The owner or operator shall have written documentation of the USTIF deductible coverage readily available and provide this documentation to the Department upon request to demonstrate that the owner or operator has sufficient financial resources to meet the USTIF deductible for both corrective action and third party liability as determined in accordance with § 245.707. [The certification shall be made on a form provided by the Department.]**

§ 245.707. Coverage amounts for financial responsibility.

The owner or operator of an underground storage tank, other than an exempt underground storage tank, shall comply with the financial responsibility requirements of this subchapter by maintaining sufficient financial resources to provide the coverage for both corrective action and third party liability, in the amounts set forth in paragraphs (1) and (2) for the applicable number of tanks:

* * * * *

(2) *For third party liability:*

<i>Number of tanks</i>	<i>Amount of required coverage</i>
1—100	1 × USTIF deductible
over [101] 100	2 × USTIF deductible

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PENNSYLVANIA PUBLIC UTILITY COMMISSION

[52 PA. CODE CH. 63]

[L-00050173]

Extended Area Service

The Pennsylvania Public Utility Commission, on October 27, 2005, adopted a proposed rulemaking order setting forth changes to regulations governing extended area service in the telecommunications industry.

Executive Summary

Periodically the Commission reevaluates its rules governing the process for changing a customer's local calling area to ensure that the Commission's regulations reflect the current state of the law as well as technology and demographic changes in telecommunications services.

On April 1, 2003, the Commission created an Extended Area Service (EAS) Task Force at Docket No. M-00031703 and charged the EAS Task Force with evaluating the Commission's regulations for EAS. EAS is a technical term referring to changes in local calling areas, typically expansions, which convert local toll calls to local calls. EAS changes typically reflect technological, economic, and demographic changes in this Commonwealth's local telecommunications markets.

The Commission's Task Force was able to reach a consensus on some, though not all, draft language revising the current regulations. Staff reviewed the parties' proposals and the Commission adopted the proposed regulation reflecting areas of disagreement and agreement among the parties.

The proposed amendments accomplish a number of Commission objectives. First, the amendments replace some outmoded definitions and propose new definitions. Second, the proposed amendments replace the current requirement of a mandatory biennial traffic study conducted by local and interexchange carriers with the option to conduct a traffic study on a case-by-case or biennial basis. Third, the proposed amendments transfer the responsibility for compiling customer responses to EAS Polls from industry to the Commission. This transfer was necessary given the reluctance of some competitive carriers to provide their traffic study to the incumbent, formerly monopoly, carrier that had traditionally compiled the traffic study. Fourth, the proposed amendments permit carriers to petition the Commission to recover any revenue shortfall or cost incurred for the implementation of EAS. Taken together, the proposed revisions should provide for better management of EAS proceedings before the Commission.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on April 11, 2006, the Commission submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Committees. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Commission, the General Assembly and the Governor of comments, recommendations or objections raised.

Public Meeting held
October 27, 2005

Commissioners Present: Wendell F. Holland, Chairperson; James H. Cawley, Vice Chairperson, concurring statement follows; Bill Shane; Kim Pizzingrilli; Terrance J. Fitzpatrick

Rulemaking Re: Proposed Revision to Commission Regulations Governing Extended Area Service (EAS) at 52 Pa. Code §§ 63.71—63.77; Doc. No. L-00050173

Report and Recommendation of the Extended Area Service Task Force; Doc. No. M-00031703

Proposed Rulemaking Order*By the Commission:*

Before the Commission for disposition is a staff recommendation and proposed rulemaking prepared in response to the Commission's Secretarial Letter of April 1, 2003 at M-00031703 regarding Extended Area Service (EAS).¹

History of the Proceeding

On June 30, 1999, the Commission entered an Order at I-00940035 (*June 1999 Order*) adopting the Extended Area Service (EAS) Report of the Monitoring and Reporting/Subscribership Subcommittee (Monitoring Subcommittee) of the Universal Telephone Service Task Force.

The *June 1999 Order*, in addition to suspending the biennial traffic usage study requirement of §§ 63.71—63.77 (the EAS Regulations), required the Monitoring Subcommittee to review the pertinent regulations for possible revisions and report its findings to the Commission.

By Secretarial Letter dated April 1, 2003 at M-00031703, the Commission created an EAS Task Force to evaluate the EAS regulations. Furthermore, the Commission separated the EAS Task Force from the Universal Telephone Service Task Force, effectively eliminating the Monitoring Subcommittee from the process. The Commission directed the EAS Task Force to focus on how to make the current regulations more reflective of the realities existing in the current marketplace. Subsequently, Commission staff convened a collaborative, including representatives of industry² and the Office of Consumer Advocate (OCA) to review and develop an EAS recom-

mendation. During the ensuing meetings, the Task Force members conducted a section-by-section review of our existing EAS regulations.

The Task Force was able to reach a consensus on some of the proposed changes; however, it could not reach a consensus on every section of the regulations. Differing viewpoints came from the Pennsylvania Telephone Association (PTA) and the OCA. Notably, the Competitive Local Exchange Carriers (CLECs) and Interexchange Carriers (IXCs) posed neither consensus nor contradictory positions. The PTA argues that the EAS regulations are no longer necessary because local and long distance competition provides customers with enough calling options to eliminate the need for a Commission-mandated extension of calling areas. Regulations are still necessary in the OCA's opinion. The OCA believes that this is particularly true for rural areas with little or no competition.

Staff reviewed the consensus language, as well as the alternative language that was proposed by the OCA and the PTA. The result of this effort, reflected in the Bureau of Fixed Utility Services (FUS) recommendation prepared in consultation with the Law Bureau, Office of Special Assistants, and Bureau of Consumer Services, is before us today.

Discussion

The proposed rulemaking recognizes that regulations are still necessary but suggests some revisions that better reflect the current environment, e.g., the advent of intraLATA³ competition and presubscription, the recent classification of optional calling plans as competitive, and the proliferation of local telephone choice in certain local markets. Staff is particularly concerned about the cost, complexity and administrative feasibility of attempting to aggregate traffic data in highly competitive areas where multiple CLECs and IXCs exist.

Although the emergence of wireless and more recent innovations such as Voice over Internet Protocol (VoIP) provides customers with expanded choice, the relatively uneven deployment of these innovative technologies and services warrants the continuation of some form of EAS. This is particularly true for those rural areas where there is less deployment of these technologies than may be the case at a future time. Moreover, section 3014(b)(7) of Chapter 30 grants some rural carriers a continuous suspension from certain interconnection requirements with alternative service providers under TA-96 through December 31, 2008.

Significant low-cost alternatives to traditional long distance programs are also not widely available in rural and urban areas. It appears that the unlimited statewide calling plans of some IXCs or local phone companies with long distance service affiliates continue to cost considerably more than an expanded local calling area. Finally, the continuing existence of customer complaints seeking EAS warrants continuation of a revised form of EAS regulations to provide these customers with an opportunity to obtain EAS as a remedy in appropriate circumstances.

³ LATA is a term of art referring to the Local Access and Transport Areas identifying the 196 local geographical areas in the US in which a local telephone company provides telecommunications services-local or long distance. The definition differentiates between "local" companies who could not provide service between LATAs and "long-distance" companies that provided service between LATAs under the Modified Final Judgment of 1984, which divested the Bell Telephone operations. The Telecommunications Act of 1996 (TA-96) allowed local companies to petition the FCC for authority to provide long-distance service under section 271 of the TA-96. Verizon Pennsylvania, Inc., as a successor Bell Operation company, has section 271 authority in Pennsylvania. Nevertheless, calls within a LATA are "intraLATA" calls and calls between LATAs are "interLATA" calls. The EAS regulations address conversion of intraLATA or interLATA toll calls to local calls.

¹ This Secretarial Letter created the Extended Area Service (EAS) Task Force for the purpose of evaluating the Commission's regulations governing EAS as set forth at 52 Pa. Code §§ 63.71—63.77

² The industry representatives included MCI, AT&T, Verizon, the Pennsylvania Telephone Association, North Pittsburgh, D&E Communications, Sprint, and Frontier.

§ 63.71. Definitions.

This section modifies several of the existing definitions, creates new definitions, and eliminates some outdated definitions. These proposed changes make the definitions match the nomenclature used in other existing Commission regulations and reflect market changes.

There are two proposed replacements and one new definition. "Basic Local Calling Area" replaces "Local Calling Area" to make it consistent with other sections of our regulations. "Customer" replaces "Subscriber" for the same reason.

There is a new definition for "Interexchange Telecommunications Carrier" for clarity. There are also new definitions of Administrative costs and Facility costs reflecting the regulations proposal to allow the recovery of one-time and on-going EAS implementation costs including the recovery of lost revenues.

The current regulations contain definitions of "Optional Calling Plans" and "Interexchange Toll Rates." The proposed rulemaking eliminates "Optional Calling Plans" and "Interexchange Toll Rates" due to the level of competition with interexchange carriers.

§ 63.72. Traffic Usage Studies.

The current regulation in § 63.72 govern traffic usage studies. The proposed § 63.72 regulation continue to govern traffic usage studies. However, the current requirements governing the general filing requirements for biennial studies would be no longer required.

The current § 63.72 regulation required all local exchange carriers to conduct traffic usage studies on a biennial basis and specified the methods for measuring calling frequency for exchanges, contiguous or noncontiguous, within 16 miles of a toll center. The Commission's *June 1999 Order* suspended this requirement. That suspension is currently in force and effect.

The proposed rulemaking for § 63.72 eliminates the biennial traffic study. This elimination continues our process of ensuring that our regulations are consistent with section 3015(e) of the Public Utility Code. *PUC Filing and Reporting Requirements on Local Exchange Carriers*, Docket No. M-00041857 (Order Entered October 5, 2005). The proposed regulations do provide, however, that in the course of a specific formal complaint proceeding, the presiding Administrative Law Judge may direct the local and long distance carriers serving a specific calling route to produce traffic studies. These proposed regulations are consistent with the recently enacted Chapter 30 legislation set forth at 66 Pa.C.S. § 3001 et seq.

The proposed regulations also permit a local exchange carrier to undertake a voluntary biennial traffic study instead of conducting studies on a case-by-case basis. The proposed regulations do not require a study if the carrier conducted a study within the previous two years or if the route obtained EAS. The proposed regulations also eliminate detailed provisions on call measurement methodology for interLATA and intraLATA calls.

Finally, the proposed regulations require the Commission to prepare a report containing the aggregated results of traffic studies within 90 days of its receipt of the study data. The report is proprietary and filed under protective seal. Participating local exchange carriers, interexchange telecommunications carriers, petitioning customers, the Office of Trial Staff, the Office of Consumer Advocate, and the Office of Small Business Advocate would receive the results.

The local exchange carrier has the responsibility for compiling the information and making an estimate of the increase in the charge for local service from EAS in the current regulation in § 63.72. Under the proposed regulation in § 63.72(e) and (f), the Commission staff assumes these responsibilities in § 63.72(e). This revision addresses market developments that make it more appropriate for the Commission staff to do this work instead of an incumbent LEC on behalf of itself and its competitors. The appropriate Commission staff compiling the results is a witness in any proceeding and is subject to cross-examination in § 63.72(f) of the proposed regulations.

The Commission recognizes that this is a significant change in process. The Commission expressly seeks comment on this proposal as well as any suggested language addressing this proposal.

§ 63.72a. Reserved.

The current regulation in § 63.72a governs the conduct of interLATA traffic studies. Those existing regulations require a local carrier to identify the interexchange carriers operating in its service territory based upon access charge levels from the most recent 12-month period. The existing regulations also contain detailed requirements for interexchange carrier submittals to a local exchange carrier. The existing regulations require the local exchange carrier analyze and aggregate the traffic data.

The proposed regulations revise these requirements and move them to a newly revised § 63.72. Section 63.72a is reserved.

The proposed regulation in § 63.72 incorporates some of the detailed provisions of the current § 63.72a. The revisions respond to market developments, EAS Task Force suggestions, the proposal to allow an ALJ to require a study in a proceeding, and an alternative that permits a local exchange carrier to conduct voluntarily a biennial traffic study in lieu of case-by-case studies.

The Commission seeks comment on these revisions, as reflected in a revised § 63.72, given market developments in the telecommunications market including but not limited to the possible merger of local exchange carriers and interexchange telecommunications carriers.

§ 63.73. Customer Polls.

The existing EAS regulation in § 63.72 governs Optional Calling Plans. The current regulations details the circumstances and procedures for the implementation of Optional Calling Plans by a local exchange carrier based on the required, though currently suspended, biennial traffic usage study.

The current regulation requires the local exchange carrier to provide a subscriber with options. The local exchange carrier must offer a subscriber the option to purchase a block of time for a flat fee or another alternative. This is required whenever the mandatory biennial traffic study shows an interexchange calling frequency of 2.00 or more calls per access line and where at least 25% of the access lines have been used for 1.00 or more calls.

The current regulation also requires each traffic study interexchange carrier to provide a subscriber with an option to purchase a block of time for a flat fee and a continuing discount for calls in excess of that block of time. This is required whenever toll traffic usage studies reveal an average monthly calling frequency of more than 2.00 calls per access line from one exchange to another exchange over an interLATA route. In both cases, a local

exchange carrier must notify subscribers of the existence of the required Optional Calling Plan within 60 days and file the requisite tariff.

The proposed regulation eliminates Optional Calling Plan requirements. The proposed deletion addresses the advent of competition in the interLATA and intraLATA toll calling markets in Pennsylvania. The Commission recognizes a view that Optional Calling Plans may retain their validity for customers that lack competitive choices or where the customers' carrier is exempt from local wireline telecommunications competition under Chapter 30 or section 251(f) of the Telecommunications Act of 1996. See generally 66 Pa.C.S. § 3014(b)(7). The Commission seeks comment on this issue and suggested language addressing how the final regulations should resolve the matter.

The proposed regulation also moves the EAS poll requirements currently set forth in § 63.74 to a revised § 63.73. These proposed regulations provide detailed procedures governing customer polls.

The proposed regulation in § 63.73(b) governs when a local exchange qualifies for EAS. The proposed regulation specifies that a local exchange will qualify for EAS when the route has an average monthly calling frequency of 5.50 or more calls per access line from one exchange to the target exchange and at least 50% of the access lines in the originating exchange have been used to make 1.00 or more calls per month. The proposed regulation in § 63.73(c) does not require a poll when customers affirmatively rejected EAS from the originating exchange to the terminating exchange during the preceding 2 years. Section 63.73(d) requires a carrier to implement one-way EAS without a customer poll over a qualifying route when usage standards are met and there is no increase in the local service charge for EAS. Conversely, § 63.73(d) will require a carrier to conduct a customer poll of the originating exchange if rates will increase to determine whether to grant EAS.

This continues the practice set forth in § 63.74 of the current regulations. Some members of the EAS Task Force wanted an increase in the calling frequency standard before a route qualifies for EAS. The proposed regulations reject that suggestion in light of the elimination of Optional Calling Plans and the absence of any valid reason to adjust the current qualifying number.

The proposed regulation in § 63.73 eliminates the current requirements in § 63.74(4) and (5) addressing two-way EAS balloting. The proposed regulation eliminates the two-way balloting provisions in response to market conditions and the EAS Task Force discussions.

The proposed regulations contain detailed procedures for mailing and counting ballots in a customer poll. These detailed revisions facilitate the Commission's obligation to tally the ballot results from a customer poll.

The proposed regulations retain the current requirements of § 63.74 that a poll is not required if one was rejected within the previous 2 years or if the usage standards are met but there will be no increase in the local service charge for implementing extended area service. The Commission also retains the authority to specify additional conditions for a customer poll.

The proposed regulation in § 63.73(e) continues provisions addressing the conduct of balloting on EAS routes if there would be an increase in local service rates due to increasing the size of the local calling area. This ensures consideration of customer responses in EAS matters.

§ 63.74. Cost Recovery.

The existing § 63.74 regulations contain detailed provisions governing the conduct of one-way and two-way EAS ballots. The proposed regulations revise the one-way ballot provisions, eliminate two-way ballot provisions, and move these revisions to a new § 63.73. The new § 63.74 contains detailed cost recovery provisions.

Under current practice, a local exchange carrier may recover the costs to implement EAS although this typically excludes any revenue shortfall recovery. The Commission took this approach in light of the increased revenue derived from expansions in the local calling areas and the delivery of new services. However, the Commission did allow for the recovery of some implementation costs. The Commission generally viewed expansions in local calling areas as a necessary response to changed circumstances and a means of ensuring reasonable service to Pennsylvanians. *Vincent P. Golden v. Bell-Atlantic, Inc. and GTE North, Inc.*, Docket No. C-00981878 (Order entered January 24, 2001); *Warthman v. GTE North, Inc.*, Docket No. C-00924416, Slip Op., p. 7, (Order entered March 20, 1995) and *Pa. P.U.C. v. ALLTEL Pennsylvania, Inc.*, Docket Nos. P-00940801 and P-00940807 (Orders entered October 19, 1994).

The Commission does consider recovery of some EAS costs, but not lost revenue, where a carrier does not have rate groups. The Commission also prohibits the substitution of noncompetitive service revenues to recover revenues from lost competitive service. *Jeb Billet et al. v. The United Telephone Company of Pennsylvania*, Docket No. C-00014854 (Order entered April 8, 2005). The Commission had taken this approach to ensure compliance with longstanding Commission-approved tariff-based local rate structures for regulated or noncompetitive services. However, the Commission has approved increases in the \$2.00 range for some local exchange calling area rates when EAS is implemented. Compare *Haines Township, Milnes Township, Penn Township, and the Borough of Millheim v. Bell Atlantic-Pennsylvania, Inc.* Docket No. C-00970430, (Opinion and Order entered February 2, 2000) with *Jeb Billet*.

The proposed regulation in § 63.74 outlines a new approach to EAS cost recovery. The proposed revisions allow local exchange carriers to petition the Commission to recover revenue shortfall as well as on-going and/or one-time costs incurred to implement EAS. The petition must also propose a method for cost recovery.

The proposed regulation presents a list of items for cost recovery. These are administration, facilities, and lost revenues. Any claimed cost must be prudently incurred and reasonable in amount. In situations where customers are responsible for cost recovery, customers receive notice of the LEC's cost recovery proposal and are provided an opportunity to vote in a customer poll.

The proposed regulation recognizes that section 3016(f)(1) of the Public Utility Code prohibits a local exchange telecommunications company from using revenues earned or expenses incurred in conjunction with noncompetitive service to subsidize competitive services. Previous declarations by some carriers that toll services are competitive may implicate section 3016(f)(1) and limit the recovery of lost revenues as reflected in the proposed § 63.74. The Commission seeks legal analysis and policy comment and suggested language addressing this issue. This is necessary because the proposed revision may encompass compensation for competitive lost toll revenues from a surcharge or other increase in noncompetitive service.

One issue that may arise if the Commission adopts the proposed cost recovery provisions concerns the interplay of cost recovery and price-cap regulated carriers. In those instances, the proposed recovery of on-going and/or one-time costs associated with the implementation of EAS routes involves the periodic annual revenue and rate increases implemented by LECs that have approved Amended Network Modernization Plans (Amended NMPs) under the new Chapter 30 law, Act 183 of 2004, P.L. 1398, 66 Pa.C.S. §§ 3011—3019. Whether the costs incurred to establish EAS routes are recovered via a surcharge in a particular affected exchange or increase a LEC's basic local exchange service rate, EAS costs will be accounted as revenues for the purpose of the LEC's calculation of the annual price stability mechanism (PSM) revenue and rate increases. See generally 66 Pa.C.S. § 3015(a). Therefore, over time, there is the potential for over-recovery of EAS costs if revenues from an EAS surcharge or other increase designed to cover on-going and/or one-time costs are included in the baseline used to calculate an incumbent local exchange carrier's PSM and associated rate increase opportunities.

Another issue that may arise if the Commission adopts the proposed cost recovery provisions concerns the potential incremental over-recovery of on-going and/or one-time EAS costs. Specifically, the Commission seeks comment on whether the PSM exogenous factors of LECs with the appropriate Amended NMPs can be utilized for that purpose to the extent that the Amended NMPs permit it, and whether other methods would be more appropriate and easier to follow and implement. Commenting parties are encouraged to submit appropriate and concise calculation examples that accurately explain their respective proposals. Commenting parties should also include proposed language reflecting resolution of this issue.

A further issue that could arise if the Commission adopts the proposed cost recovery provision concerns the customers responsible for cost recovery and the Public Utility Code. The proposed regulations do not address the issue of cost recovery of non-recurring and recurring EAS route costs and lost revenues from end-user customers of a LEC with an approved Amended NMP where such customers purchase "service bundles" from the LEC. These "service bundles" typically include protected (e.g., basic local exchange service), non-competitive, and competitive services, and are offered as competitively priced "service bundle packages." See generally 66 Pa.C.S. § 3016(e)(2).

The Commission solicits comments on whether end-user customers with "service bundles" should shoulder the burden of the cost and lost revenue recovery for a LEC's establishment of an EAS route in one or more exchanges in the same manner as the end-users who do not subscribe to the LEC's "service bundles." This is an important consideration given inter alia the provisions of sections 1304 and 3016(f)(1) of the Public Utility Code. If appropriate, the Commission seeks comment on whether on-going and/or one-time EAS costs and lost revenue recovered from end-user customers with "service bundles" should be accomplished through the rates charged for the protected and noncompetitive services portion of the "service bundle" when one or more EAS routes provides those customers with one or more expanded local calling areas.

The commenting parties should address this issue and provide specific language suggesting how the final regulations can address this concern with particular attention paid to the avoidance of undue and unlawful rate discrimination. See generally 66 Pa.C.S. § 1304.

The commenting parties should also address EAS cost and revenue recovery in situations where a rural LEC⁴ has implemented differentiated prices for its protected and non-competitive services in a particular exchange to meet the presence of a local exchange services alternative provider, and the establishment of one or more EAS routes affect this particular exchange. See generally 66 Pa.C.S. § 3016(e)(3). The comments should propose a solution and suggested language addressing EAS cost recovery on a per-specific exchange basis, as well as rationales and methods of resolving potential undue and unlawful rate discrimination situations.

Finally, the proposed regulations would allow the recovery of lost revenues. As noted, the Commission's earlier decision in *Jeb Billet* suggests a contrary approach. *Jeb Billet*. The Commission seeks comment on whether the LEC should be compensated for lost revenues, including suggested language reflecting how the final regulations should resolve the matter.

§ 63.75. EAS Complaints.

The current § 63.75 governs the conduct of subscriber polls required of a local exchange carrier based on submitted traffic usage data indicating that a route qualifies for expanded area service. The current § 63.75 contains detailed provisions regarding Commission approval of a transmittal letter and ballot to subscribers. The current § 63.75 also contains detailed provisions regarding the mailing, tabulation, and evaluation of results from subscriber polls.

The proposed regulation revises these § 63.75 provisions and then moves them to a new § 63.73. The proposed regulation in § 63.75(a) continues the Commission's requirement to evaluate EAS complaints according to criteria set forth in § 63.77 of the current regulations although the § 63.77 criteria are now set forth as § 63.76 of the proposed regulation.

The revised § 63.75 in the proposed rulemaking is virtually identical to the existing section on EAS complaints set forth in § 63.76. The only major revision is one that requires a customer to file a formal complaint to have EAS considered for a particular route. This revised criterion in the new § 63.76 complaint continues to govern evaluation of EAS.

The proposed regulations for § 63.75 do contain some new requirements. The Commission must evaluate a formal complaint using the revised evaluation criteria set forth in a revised § 63.76 (specifying the criteria for evaluating EAS complaints). The proposed regulation continues the requirement that each local exchange carrier and interexchange telecommunications carrier shall be an indispensable party in any EAS proceeding where multiple local exchange carriers and interexchange telecommunications carriers provide service in the exchanges that are the subject of the EAS proceeding.

§ 63.76. Evaluation Criteria.

The current regulation in § 63.76 allows the filing of formal EAS Complaints. The current provisions permit the filing of a formal complaint seeking extended area service. The current regulation in § 63.76 requires that any formal complaint be evaluated according to the criteria set forth in § 63.77 of the existing regulation.

⁴ As the term "rural LEC" is defined in 66 Pa.C.S. § 3012 and TA-96.

The current regulation also provides that each affected utility shall be an indispensable party if multiple telephone utilities are involved.

The proposed regulations for § 63.76 contain a revised version of the EAS evaluation criteria now set forth in § 63.77. The § 63.76 criteria determine when EAS relief is appropriate.

The proposed regulation revises the current § 63.77(2) provisions governing cost recovery by including revenue shortfall and expense items as new considerations in addressing the revised criteria for evaluating a formal EAS complaint in § 63.76(a)(2) of the proposed regulation. The proposed items eligible for consideration include administrative costs, facility costs, and lost revenue based on definitions set forth in § 63.71. These revisions reflect views of the EAS Task Force that specific and detailed cost recovery allowances are necessary. The revisions also reflect the proposed cost recovery provisions in § 63.74.

As with § 63.74, the Commission recognizes that section 3016(f)(1) of the Public Utility Code prohibit a local exchange telecommunications company from using revenues earned or expenses incurred in conjunction with noncompetitive service to subsidize competitive services. The declaration that toll services are competitive may implicate section 3016(f)(1) and the recovery of lost revenues proposed by these revisions.

The Commission expressly seeks legal analysis and policy comment on this proposed revision and § 63.74. The prohibition in section 3016(f)(1) may limit the scope and applicability of these proposed revisions.

§ 63.77. *Reserved.*

The current regulation in § 63.77 specifies the criteria used to evaluate formal complaints concerning any expansion of a local calling area. The proposed regulation revises these criteria, places this provision in a new § 63.76, and solicits comments on those proposed changes. The proposed regulation preserves this section for future use.

The Impact of Act 183, 66 Pa.C.S. §§ 3001—3019.

The General Assembly's recent enactment of revisions to Chapter 30 of the Public Utility Code addresses the delivery of telephone to Pennsylvanians. Consistent with section 3016(e), the proposed regulations eliminate the mandatory biennial traffic study. We tentatively conclude that no other provisions of Act 183, 66 Pa.C.S. §§ 3001—3019, limits our ability to propose these EAS regulations. However, we expressly seek comment on this tentative conclusion as well as any matter with the purview of this proposed revision to 52 Pa. Code §§ 63.71—63.77.

Conclusion

Upon consideration, we conclude that the proposed rulemaking, as set forth in this order, should be adopted. Our action begins the process needed to consider promulgation of revised EAS regulations that reflect the uneven development of customer choice and the deployment of telephony technology in Pennsylvania. Accordingly, under section 501 of the Public Utility Code, 66 Pa.C.S. § 501, and the act of July 31, 1968 (P. L. 769, No. 240), known as the Commonwealth Documents Law, and regulations promulgated thereunder at 1 Pa. Code §§ 7.1—7.4, we amend the regulations at 52 Pa. Code §§ 63.71—63.77 as previously noted and as set forth in Annex A;

Therefore,

It Is Ordered That:

1. A proposed rulemaking be opened to consider the amendments set forth in Annex A.

2. The Secretary shall submit this order and Annex A to the Office of Attorney General for review as to form and legality and to the Governor's Budget Office for review for fiscal impact.

3. The Secretary shall submit this order and Annex A for review and comment to the Independent Regulatory Review Commission and Legislative Standing Committees.

4. The Secretary shall certify this order and Annex A, and deposit them with the Legislative Reference Bureau to be published in the *Pennsylvania Bulletin*. The Secretary shall specify publication of the order in accordance with 45 Pa.C.S. § 727.

5. An original and 15 copies of any comments to the proposed rulemaking be submitted within 45 days of publication in the *Pennsylvania Bulletin* to the Pennsylvania Public Utility Commission, Attn: Secretary, P. O. Box 3265, Harrisburg, PA 17105-3265. The comments should reference the docket number of the proposed rulemaking. In addition, electronic copies of the comments should be submitted to the following referenced contacts on disk in Word format and by e-mail, and submitted electronically to Cyndi Page, of the Commission's Communications Office, (717) 787-5722, cypage@state.pa.us.

6. The contact persons for this rulemaking are Joseph K. Witmer, Law Bureau, (717) 787-3663, joswitmer@state.pa.us, and Anthony J. Rametta, Bureau of Fixed Utility Services, (717) 787-2359, arametta@state.pa.us.

7. A copy of this order and Annex A be served upon the Office of Trial Staff, the Office of Consumer Advocate, the Office of Small Business Advocate, the Pennsylvania Telephone Association and all jurisdictional telecommunications utilities.

JAMES J. MCNULTY,
Secretary

Fiscal Note: 57-242. No fiscal impact; (8) recommends adoption.

Concurring Statement of Vice Chairperson James H. Cawley

Rulemaking Re: Proposed Revision to Commission Regulations Governing Extended Area Service (EAS) at 52 Pa. Code §§ 63.71—63.77; Public Meeting: October 27, 2005; SEPT-2005-L-0056-REV; Docket No. L-00050173*

Report and Recommendation of the Extended Area Service Task Force; Docket No. M-00031703

Before us is the Staff recommendation for changes to this Commission's Extended Area Service (EAS) regulations, with the associated Proposed Rulemaking Order, and Annex A with the currently proposed EAS regulations. I appreciate the efforts that have been put into this matter by the various Commission Staff Bureaus and Offices, other statutory agencies, and the members of the telecommunications industry that this Commission regulates. However, the proposed regulations of an independent regulatory administrative agency such as this Commission must first reflect its existing policy that traditionally has governed its own individual case adjudications.

A. "Lost Revenue" Recovery

Existing Commission precedent strongly suggests that the Commission traditionally has not permitted local exchange carriers (LECs) implementing EAS routes to recover "lost revenues" from their customers that benefit from expanded local calling areas. For example, the Commission has not considered the recovery of "lost revenues" where the LEC in question does not have rate groups for its basic local exchange services. More recently, the Commission addressed the issue of "lost toll revenue" recovery in situations where a LEC has had its long-distance services classified as "competitive" under the pertinent provisions of the past and current version of Chapter 30, now codified at 66 Pa.C.S. §§ 3011—3019. The Commission has ruled that the potential recovery of "lost toll revenues" through EAS-related rate increases to a LEC's "non-competitive services," where the LEC's long-distance services had been classified as "competitive," would violate Chapter 30's statutory prohibition against the cross-subsidization of "competitive services" with revenues from "non-competitive services." *Jeb Billet, et al. v. The United Telephone Company of Pennsylvania, et al.*, Docket No. C-00014854, Order entered April 8, 2005, at 12-13.

Since a set of proposed Commission rules should reflect existing Commission policy, my preference would have been that references to "lost revenues" should be eliminated from the proposed rules in Annex A. However, because this issue may be of importance, especially to smaller rural incumbent LECs (ILECs) that can be called to establish EAS routes, the Commission could still solicit comments on this issue and suggested amendments to our proposed EAS regulations. These comments and suggested amendments could specifically address the issue of "lost revenue" recovery when and where EAS routes are established, and the interrelationship and reconciliation of "lost revenue" recovery mechanisms with:

1. The annual ILEC Chapter 30 price stability mechanism (PSM) revenue and rate increase submissions (66 Pa.C.S. § 3015);
2. The recovery of "lost revenues" from end-users who benefit from the EAS expansion in local calling areas and where the ILEC provides such end-users with "bundled packages of services" that can include "protected," "non-competitive," "competitive," and non-tariffed services (66 Pa.C.S. § 3016(e)); and
3. The recovery of "lost revenues" in situations where a rural ILEC may have established the differentiated pricing of its regulated services in a particular exchange under 66 Pa.C.S. § 3016(e)(3) in order to meet the competitive presence of an alternative service provider, and the same exchange is affected by the establishment of an EAS route.

B. EAS Balloting

The Commission could also solicit comment and suggested amendments to our proposed regulations on whether uniform guidelines should apply to the conduct of balloting activities associated with the establishment of EAS routes. These comments should address whether customer-specific EAS ballots should be proportionately weighted, e.g., by the number of access lines or accounts of the particular customer, or by some other method.

For these reasons and with this Statement I concur in the overall recommendation of the Proposed Rulemaking Order and Annex A with the proposed EAS regulations.

Annex A

TITLE 52. PUBLIC UTILITIES
PART I. PUBLIC UTILITY COMMISSION
Subpart C. FIXED SERVICE UTILITIES
CHAPTER 63. TELEPHONE SERVICE
Subchapter F. EXTENDED AREA SERVICE

§ 63.71. Definitions.

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

Administrative costs—The costs of EAS balloting, traffic studies, consultant fees, documentation, billing and clerical costs to provide EAS for the routes added.

Basic local calling area—The area, consisting of one or multiple telephone exchanges consistent with 66 Pa.C.S. (relating to the Public Utility Code) and this title as they exist or may come to exist, and as set forth in the incumbent local exchange carrier's tariff, within which calls may be completed without having additional interexchange calling rates apply.

Customer—A person or entity that contracts directly with a local exchange carrier for telephone service.

EAS—extended area service—The expansion of a local calling area to include additional exchanges.

Exchange—An area served by one or more central offices which has a [unique] basic local calling area and a defined rate center from which toll distances are measured.

Facility costs—The costs of all leased or purchased plant, equipment and computer software necessary to provide EAS for the routes added.

[**Full billing and collection agreement**—An agreement under which an interexchange carrier contracts with the local exchange carrier to bill and collect the revenues for message toll service calls placed by end users through the interexchange carrier as the presubscribed carrier.]

Interexchange telecommunications carrier—A carrier, other than a local exchange carrier, authorized by the Commission to provide interexchange telephone services to the public.

[**Interexchange toll rates**—Telephone rates, usually based in part on the length of a telephone call, which are applied to calls between exchanges that are not in the same local calling area.]

LATA—A local access and transport area [as designated by] set forth in Federal [law] regulations (47 CFR 53.3 (relating to terms and definitions)).

[**Local calling area**—The area, consisting of one or multiple telephone exchanges, between which calls may be completed without having interexchange toll rates applied.]

Local exchange carrier—A competitive or incumbent public utility [which] that is [certificated] authorized to provide intraexchange telephone service.

[*Optional calling plan*—A tariff provision which establishes the rate option to be offered to residential and business subscribers in exchanges which qualify for alternatives to EAS under § 63.73 (relating to optional calling plans).]

Qualified noncontiguous exchanges—Exchanges with toll rate centers within 16 miles of each other [which] that do not geographically border each other but [which] that meet the following criteria:

(i) The call-frequency standards between the exchanges established under [§ 63.74 (relating to EAS polls)] § 63.73 (relating to customer polls) are met in at least one direction.

(ii) The basic local calling area of the [calling] originating exchange is contiguous to the receiving exchange.

[*Subscriber*—A person or entity which contracts directly with a telephone utility for telephone service.]

Traffic study interexchange carriers—The [five most active] interexchange telecommunications carriers [in the service territory of a local exchange carrier as determined by a biennial review of interLATA access charge levels] that serve customers in the exchange for which a traffic study is conducted. § 63.72. Traffic usage studies.

[A local exchange carrier shall conduct a biennial interexchange toll traffic usage study. The study shall measure traffic over both intraLATA and interLATA routes. The study shall measure the average calling frequency between contiguous exchanges and between each exchange and each noncontiguous exchange having a toll rate center within 16 miles. On intraLATA routes only, the study shall also measure the percentage of total access lines within the exchange over which the calls are placed. In measuring calling frequency, all calling classes shall be considered collectively, including those who have elected optional calling plans under § 63.73 (relating to optional calling plans). The study shall measure usage in a representative 30-day period within the 12-month period preceding the study. The local exchange carrier shall prepare a report containing results of the study. The report is required to address only routes which equal or exceed 1.50 calls per access line per month. The report shall be filed with the Commission with a copy to the Office of Consumer Advocate on or before October 1 of each survey year. The report will be treated as proprietary and shall be filed under protective seal. The Commission and the Office of Consumer Advocate will release the results of the report, upon request, on a route specific basis to customers or customer representatives. Traffic usage data for routes with less than 1.50 calls per access line per month shall be submitted by local exchange carriers upon request by the Commission or the Office of Consumer Advocate.]

(a) A local exchange carrier and interexchange telecommunications carrier serving the originating exchange shall conduct traffic usage studies at the direction of an administrative law judge in connection with a formal EAS complaint proceeding. Traffic usage studies shall be conducted according to the following:

(1) The traffic study must measure traffic over both IntraLATA and InterLATA routes, and include all traffic originating from the calling exchange. The study must measure the average calling frequency between the originating and the target exchanges.

(2) In measuring calling frequency, all classes and methods of making wireline calls including customers with optional calling plans, direct dialed tolls, calling cards (prepaid or otherwise), operator-handled, directory assistance call completion or through text telephone (TTY/TDD), must be considered collectively.

(3) Each local exchange carrier and interexchange telecommunications carrier that is ordered to conduct a traffic usage study shall produce a study that has the following information:

(i) The total number of presubscribed access lines served in the exchange involved.

(ii) The number of presubscribed access lines in the originating exchange that makes at least one call to the target exchange during the study month.

(iii) The total number of calls placed from the originating exchange to the target exchange.

(4) The traffic usage study must measure calling in March or October preceding the date on which an administrative law judge directs that a traffic usage study be conducted. The local exchange carriers and interexchange telecommunications carriers shall provide the results of the traffic usage studies to the Commission, or to an entity designated by the Commission, within 60 days of the administrative law judge's order that a traffic usage study be conducted.

(b) A local exchange carrier or interexchange telecommunications carrier may elect to conduct a single traffic usage study for its entire service territory instead of conducting a route-specific toll usage study in connection with an EAS proceeding. A single traffic usage study shall be conducted according to the following:

(1) The study must be performed at least once every 24 months.

(2) The study must measure the calling frequency in the month of March or October.

(3) The study must measure traffic over intraLATA and interLATA routes.

(4) The study must measure the average calling frequency between contiguous exchanges and between each exchange and each noncontiguous exchange having a toll rate center within 16 miles.

(5) The local exchange carrier or interexchange telecommunications carrier shall file the results of this study with the Commission.

(c) A local exchange carrier or interexchange telecommunications carrier that chooses to conduct a single traffic usage study as set forth in subsection (b) may use the results of that study to provide route specific traffic usage data in connection with an EAS complaint proceeding and is not required to perform an additional traffic usage study for the route on which EAS has been requested unless unique circumstances exist with respect to that route or unless specifically ordered to do so.

(d) A local exchange carrier or an interexchange telecommunications carrier is not required to conduct a traffic usage study for a particular exchange if a study on the same toll route has been performed within the preceding 2 years and the results of the study did not require the implementation of EAS or a customer poll for EAS, or if the local exchange carrier already has implemented EAS on that same route.

(e) The Commission staff will prepare a report for any route-specific toll usage study ordered in connection with an EAS proceeding or for any local exchange carrier or interexchange telecommunications carrier that conducts a single traffic usage study. The Commission staff report will contain the aggregated results of the studies submitted. The Commission staff will issue the report within 90 days from receipt of the study data. The Commission staff will treat the report as proprietary and will file it under protective seal. The Commission staff will provide the results of the report to participating local exchange carriers, interexchange telecommunications carriers, petitioning customers, the Office of Trial Staff, the Office of Consumer Advocate and the Office of Small Business Advocate. Upon request, the Office of Trial Staff, the Office of Consumer Advocate and the Office of Small Business Advocate may release the aggregated results for a specific route to a customer or to a customer's legal representative.

(f) In accordance with 66 Pa.C.S. § 308(g) (relating to bureaus and officer), the appropriate Commission staff shall appear as witnesses in a proceeding to present the compiled results of the traffic usage study or studies for the record and shall be subject to cross-examination.

§ 63.72a. [InterLATA traffic studies] (Reserved).

[(a) By January 31 of each year in which a biennial traffic study is due, each local exchange carrier will identify and formally notify the Commission of the traffic study interexchange carriers in its service territory. The identity of the traffic study interexchange carriers shall be based upon review of the access charge levels from the most recent 12-month period available. Each local exchange carrier shall concurrently notify each traffic study interexchange carrier of the following:

(1) That the interexchange carrier's traffic will be included in the local exchange carrier's traffic study under this subchapter.

(2) The format which the local exchange carrier will utilize in its traffic usage study.

(3) The representative month the local exchange carrier will use in its study.

(b) Each traffic study interexchange carrier shall provide the local exchange carrier with data which identifies the relevant interexchange traffic completed by the interexchange carrier and which originated in the local exchange carrier's service territory for the representative month used by the local exchange carrier. The data shall be submitted to the local exchange carrier by June 1 of each year in which a biennial traffic usage study is due. The data submitted by traffic study interexchange carriers may not include traffic for which the

interexchange carrier bills through the local exchange carrier under a full billing and collection agreement.

(c) The data submitted by each traffic study interexchange carrier shall be organized consistent with the following:

(1) The data shall be in the format specified by the local exchange carrier for the traffic usage study.

(2) The data shall identify the total number of calls completed by the traffic study interexchange carrier and which originated in each exchange in the local exchange carrier's service territory for each interLATA route which requires study under § 63.72 (relating to traffic usage studies) for the representative month.

(3) The data shall identify the total number of access lines presubscribed to the traffic study interexchange carrier in each exchange for which data is submitted under paragraph (2).

(4) Data submitted by a traffic study interexchange carrier to a local exchange carrier shall be considered proprietary to the traffic study interexchange carrier and may not be used by the local exchange carrier for a purpose other than preparing its traffic usage study.

(5) Each traffic study interexchange carrier may petition the Commission to waive the submission of a portion of the data required to be submitted under this section. Each waiver petition shall include the estimated costs of submitting the data and the relative amount of traffic which the data represents. The Commission will approve a waiver petition only if it finds that the costs to the interexchange carrier outweigh the value of the data to the traffic usage study.

(d) Upon receiving the traffic study interexchange carrier data, each local exchange carrier shall complete the following in preparing the interLATA component of the traffic usage study:

(1) Collect and analyze the traffic data for each traffic study interexchange carrier for calls completed by the interexchange carrier which are billed through the local exchange carrier under a full billing and collection agreement.

(2) Aggregate the traffic data it collects and analyzes under full billing and collection agreements with the traffic data it receives from each traffic study interexchange carrier. Each local exchange carrier shall report the aggregate interexchange carrier. Each local exchange carrier shall report the aggregate results of the interLATA traffic study to the Commission in its biennial traffic usage study filed under § 63.72.]

§ 63.73. [Optional calling plans] Customer polls.

[(a) When biennial interexchange toll traffic usage studies reveal an average monthly calling frequency of 2.00 or more calls per access line from one exchange to another and where at least 25% of the access lines in the calling exchange have been used for 1.00 or more calls per month to the receiving exchange over a route for which a local

exchange carrier provides toll service, a local exchange carrier shall offer one of the following rate options to each residential and business subscriber within the calling exchange:

(1) The ability to purchase for a flat fee a block of time for calls and a continuing discount for all usage exceeding the initial block of time to the receiving exchange during each billing period.

(2) Another alternative rate option approved by the Commission.

(b) When an exchange qualifies for an optional calling plan over a route served by a local exchange carrier, the local exchange carrier shall notify each residential and business subscriber within 60 days of the availability of the optional calling plan and shall provide to each subscriber a general description of the rates and benefits of the optional calling plan.

(c) When biennial interexchange toll traffic usage studies reveal an average monthly calling frequency of 2.00 or more calls per access line from one exchange to another over an interLATA route, each traffic study interexchange carrier serving the route shall offer one of the following rate options to each residential and business subscriber to whom the traffic study interexchange carrier provides toll service within the calling exchange:

(1) The ability to purchase a block of time for calls for a flat fee and a continuing discount for usage exceeding the initial block of time to the receiving exchange during each billing period.

(2) Another alternative rate option approved by the Commission.

(d) When an exchange qualifies for an optional calling plan over an interLATA route, each traffic study interexchange carrier serving the route shall notify each residential and business subscriber it serves in the exchange within 60 days of the availability of the optional calling plan and shall provide a description of the rates and benefits of the optional calling plan.

(e) A local exchange carrier and a traffic study interexchange carrier, serving a route which qualifies for an optional calling plan under a traffic usage study shall maintain in its tariff a provision which provides for establishment of an optional calling plan. The optional calling plan shall be consistent with subsection (a) or (b) and may establish flat fees to be charged for the installation of the optional calling plan.

(f) A local exchange or traffic study interexchange carrier may not terminate an optional calling plan to an exchange without express Commission approval.]

(a) When a traffic usage study qualifies for EAS or EAS is determined to be appropriate, the local exchange carriers in the exchange or exchanges subject to extended area service shall conduct a customer poll of the originating exchange in accordance with this section, with oversight by the Commission, to determine if the basic local calling area of the exchange should be extended. Customer polls shall be conducted using only balloting materials approved by the Commission.

(b) A route qualifies for EAS if it has an average monthly calling frequency of 5.50 or more calls per access line from an originating exchange to the target exchange, and if at least 50% of the access lines in the originating exchange have been used to make 1.00 or more calls per month to the target exchange.

(c) A poll is not required if customers have affirmatively rejected the implementation of EAS from the originating exchange to the target exchange during the preceding 2 years.

(d) A poll is not required when usage standards are met on a specific route and there will be no increase in the local service charge for extending the basic local calling area. In those cases, the local exchange carrier shall implement one-way EAS over the qualifying route.

(e) The local exchange carrier shall mail one ballot to each customer in the originating exchange. Ballots must be preaddressed, postage prepaid postcards, returnable directly to the Commission. The Commission will tabulate the ballots. At the time the ballots are mailed, the local exchange carrier shall provide the Commission with a list of customers polled, together with their addresses and telephone numbers.

(f) The poll is valid when at least 50% of the ballots mailed to customers in a polled exchange are returned.

(g) The local exchange carrier shall implement EAS when greater than 50% of the returned ballots in a valid poll are in favor of EAS.

(h) The Commission may specify additional conditions under which customer polls shall be conducted when circumstances require.

(i) A local exchange carrier or interexchange telecommunications carrier may petition the Commission for waiver of a provision of this section to address unique circumstances, such as a local exchange carrier that already has EAS from the originating exchange to the target exchange.

§ 63.74. [EAS polls] Cost recovery.

[Whenever a traffic usage study between contiguous exchanges or between qualified noncontiguous exchanges qualifies for EAS under paragraphs (1) and (2), a subscriber poll of the calling exchange shall be conducted by the local exchange carrier serving the calling exchange to determine if the local calling area should be extended.

(1) For intraLATA routes, a route qualifies for extended area service if it has an average monthly calling frequency of 5.50 or more calls per access line from one exchange to another and where at least 50% of the access lines in the calling exchange have been used for 1.00 or more calls per month to the receiving exchange.

(2) For interLATA routes, a route qualifies for EAS if it has an average monthly calling frequency of 5.50 or more calls per access line from one exchange to another.

(3) A subscriber request for polling will not be considered a legal pleading and will not be subject to response by a utility or another party.

(4) A poll is not required if subscribers have affirmatively rejected the implementation of EAS from the calling exchange to the receiving exchange during the preceding 2 years.

(5) Two-way balloting will not be required unless usage standards are met in both directions.

(6) If two-way balloting is required and if the same telephone utility serves each exchange, the utility shall poll subscribers in each exchange for EAS into the other exchange. If different telephone utilities serve each exchange, each utility shall poll its own subscribers.

(7) A poll is not required when usage standards are met on a specific route and there will be no increase in the local service charge for extending the local calling area of an exchange. In this instance, one-way EAS shall be implemented over the qualifying route.

(8) When usage standards are met in both directions, two-way balloting is not required if there will be no increase in the local service charge for extending the local calling area for one of the two exchanges. If one of the two exchanges will receive an increase, than that exchange shall be polled and, if the exchange polled adopts EAS two-way EAS shall be implemented. Otherwise, one-way EAS shall be implemented on the route where there will be no increase.

(9) If circumstances require, the Commission may specify additional conditions under which polls shall be conducted.

(10) A local exchange carrier may petition the Commission for waiver of a provision of this section to address unique circumstances.]

(a) A local exchange carrier may petition the Commission to recover revenues lost and costs incurred in connection with the implementation of EAS, under the provisions of this section, beginning on the date on which EAS is implemented. To qualify for recovery, the costs must be prudently incurred and reasonable in amount. The items that may be recoverable include:

- (1) Administrative costs.
- (2) Facility costs.
- (3) Lost revenues.

(b) The claim set forth in the petition shall be the net of any revenue increases and cost decreases experienced as a result of the implementation of EAS.

(c) The local exchange carrier shall include the proposed method of recovery in its petition. The customer poll must identify the rates and method utilized when the recovery shortfall is to be collected from customers.

§ 63.75. [Subscriber polls] EAS complaints.

[The following rules apply to EAS subscriber polls:

(1) Within 180 days of the submission of traffic usage data indicating that a route qualifies for EAS under § 63.74 (relating to EAS polls), a local exchange carrier shall file a petition with the Commission requesting approval of a proposed transmittal letter and ballot which includes an estimate of the increase in the charge for local service to the Commission as a result of extending the local calling area. The Commission will approve a transmittal letter and ballot which shall include an estimate of the increase in the charge for local service, if any, due to the expansion of the local calling area.

(2) The local exchange carrier shall mail one approved ballot to each subscriber in the calling exchange. The local exchange carrier may tabulate the ballots itself but shall submit to the Bureau of Safety and Compliance a list of customers to be polled and their telephone numbers prior to sending out ballots. Upon completion of tabulation by a local exchange carrier, the local exchange carrier shall submit the original returned ballots to the Bureau of Safety and Compliance and shall submit a verified report to the Commission detailing the results of the poll. If the local exchange carrier does not tabulate the ballots itself, the ballots sent by the local exchange carrier to the subscribers shall be preaddressed, postage prepaid postcards to be returned to the Commission for tabulation.

(3) At least 50% of the ballots from an exchange shall be returned for a poll to be considered valid.

(4) In a valid poll, if 50% of the ballots returned from an exchange are in favor of EAS, the affected local exchange carriers shall implement EAS to the receiving exchange.

(5) In cases where interLATA EAS is implemented, telephone service between the calling exchange and the receiving exchange shall be transferred from the interexchange carriers serving the calling exchange to the local exchange carrier serving the calling exchange.

(6) In cases where the local exchange carrier is prohibited from providing service between the calling exchange and the receiving exchange by Federal antitrust consent decree restrictions and a waiver is necessary to implement EAS, the local exchange carrier shall apply for a waiver of Federal antitrust restrictions to allow it to implement EAS. The request for waiver will be made within 60 days of a Commission order or Secretarial Letter approving EAS. The Commission will file a statement affirmatively supporting the waiver application.]

The Commission will evaluate a formal complaint seeking the implementation of EAS according to the criteria in § 63.76 (relating to evaluation criteria). When multiple local exchange carriers and interexchange telecommunications carriers are involved, each shall be an indispensable party to the proceeding. Local exchange carriers and interexchange telecommunications carriers shall be required to perform a traffic usage study under § 63.72 (relating to traffic usage studies) when an administrative law judge concludes that a traffic usage study is necessary to determine if EAS should be implemented.

§ 63.76. [EAS complaints] Evaluation criteria.

[A formal complaint may be filed seeking the implementation of EAS. A complaint will be evaluated according to the criteria in § 63.77 (relating to evaluation criteria). If multiple telephone utilities are involved, each affected utility shall be an indispensable party to the proceeding. An administrative law judge may, as part of an initial decision, recommend the conduct of subscriber polls under § 63.75 (relating to subscriber polls) to determine if EAS should be implemented. The provisions of this subchapter do not prohibit the filing of complaints seeking the implementation of EAS between noncontiguous exchanges.]

(a) The Commission will consider the following criteria when evaluating a formal complaint seeking EAS under § 63.75 (relating to EAS complaints):

(1) The amount of traffic between the originating exchange and the target exchange, as measured in accordance with the provisions of § 63.72 (relating to traffic usage studies).

(2) The revenue shortfall and expense to the local exchange carrier of implementing extended area service. Revenue shortfall and expense items to be reviewed include:

(i) Administrative costs.

(ii) Facility costs.

(iii) Lost revenues.

(3) Cost recovery shall be net of revenue increases and cost decreases experienced by the local exchange carrier as a result of the implementation of EAS.

(4) The potential increase in local service charge due to implementation of EAS versus the current cost to customers for interexchange calls.

(5) The demographics and proximity of the exchanges involved as indicating community of interest between the originating and target exchanges.

(6) The availability of adequate and reasonably priced alternatives to EAS.

(7) The economic effect on the community when the basic local calling area is not extended.

(b) The criteria in subsection (a) shall be evaluated based on the majority of the customers in the exchange under consideration for EAS.

§ 63.77. [Evaluation criteria] (Reserved).

[The Commission will consider the following criteria in evaluating EAS complaints:

(1) The amount of toll charge traffic between the two exchanges.

(2) The cost to the utility of implementing extended area service.

(3) The potential increase in local service charge due to implementation of EAS versus the current cost to subscribers for interexchange toll calls.

(4) The demography and the proximity of the exchanges as indicating community of interest.

(5) The availability of alternatives to EAS.

(6) The economic effect on the community if the local service area is not extended.]

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[52 PA. CODE CHS. 63, 64, 71 AND 73]

[L-00050176]

PUC Filing and Reporting Requirements on Local Exchange Carriers

The Pennsylvania Public Utility Commission, on December 15, 2005, adopted a proposed rulemaking order which eliminates certain filing and reporting requirements for local exchange carriers (LEC).

Executive Summary

By Order entered on January 3, 2006, at Docket No. L-00050176, the Commission adopted a Proposed Rulemaking Order to amend §§ 63.11, 64.23(a) and (b), 64.41, 64.201(a) and (b), 71.3(b), 73.3(a) and (b), 73.5(b) and 73.7(b). The purpose of the proposed rulemaking is to eliminate or modify the current language of the previously-mentioned regulations to reflect the Commission's action in its Final Implementation Order in *PUC Filing and Reporting Requirements on Local Exchange Carriers* at Docket No. M-00041857 entered October 5, 2005. At Docket No. M-00041857, the Commission determined that certain LEC reporting requirements should be maintained, streamlined or eliminated in accordance with the provisions of Chapter 30 of the Public Utility Code, 66 Pa.C.S. Chapter 30, and the submitted comments in the docket. In addition, the proposed deletion of § 63.11 is in accordance with the Commission's action in its Final Order in *Section 3015(f) Review Regarding the Lifeline Tracking Report, Accident Report and Service Outage Report* at Docket No. M-00051900 entered December 30, 2005.

Under the current language of § 63.11, a public utility providing telecommunications service is required to file an accident report involving its facilities or operations resulting in injury or death to a person or public utility employee. The proposed amendment to § 63.11 is to eliminate this regulation since this report can no longer be required in accordance with sections 3015(e) and (f)(1) of the Public Utility Code, 66 Pa.C.S. § 3015(e) and (f)(1).

Also, § 64.23 provides that LECs report instances of unauthorized charges and changes to customers' bills known as cramming and slamming. The Commission's regulation in § 64.41 also requires LECs to pay interest on customers' deposits and, subsequently, report the paid interest rate to the Commission. In addition, § 64.201(a) and (b) require LECs to file residential account information reflecting billing and collection practices including customer disputes on a quarterly or annual basis depending upon the size of the LEC. In Chapter 64, the Commission proposes to change the regulations to require LECs to maintain records documenting instances of slamming and cramming but to eliminate the quarterly requirement to report the unauthorized activity to the Commission. Also, the Commission is modifying the interest rate to be paid on customers' deposits to reflect current practice by the telecommunications industry. The Commission further proposes to reduce the filing of residential account information to an annual reporting

requirement for all LECs regardless of the number of residential accounts that the companies serve.

In Chapter 71 of the Commission's regulations, LECs with annual intraState gross revenues in excess of \$10 million currently are required to file financial reports on an annual basis. The Commission is proposing to delete § 71.3 because Chapter 30 of the Public Utility Code does not permit the filing of a separate financial earnings report of the type required by this regulation.

In Chapter 73 of the Commission's regulation, LECs are required to submit an annual depreciation report (§ 73.3), a triennial service life study report (§ 73.5) and a triennial capital investment plan report (§ 73.7). The Commission proposes to eliminate all of these filings because Chapter 30 of the Public Utility Code no longer permits the reporting of this type of information as required by these regulations.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on April 11, 2006, the Commission submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Committees. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Commission, the General Assembly and the Governor of comments, recommendations or objections raised.

Public Meeting held
December 15, 2005

Commissioners Present: Wendell F. Holland, Chairperson; James H. Cawley, Vice Chairperson; Bill Shane; Kim Pizzingrilli; Terrance J. Fitzpatrick

Rulemaking Re: PUC Filing and Reporting Requirements on Local Exchange Carriers; Doc. No. L- 00050176

Proposed Rulemaking Order

By the Commission:

On October 5, 2005, the Commission entered a Final Implementation Order¹ at Docket No. M-00041857 regarding the filing and reporting requirements for Local Exchange Carriers (LECs) in compliance with the new Chapter 30.² In that Order, the Commission determined that certain LEC reporting requirements should be maintained, streamlined or eliminated in accordance with the provisions of Chapter 30 and the submitted comments in the matter. Under the October 5, 2005 Final Implementation Order, the Commission formally commences this rulemaking to eliminate certain LEC reports. The Commission seeks comment from all interested parties on these proposed revisions to our regulations, which are found at Annex A of this Order, and any other applicable Commission documents, Orders, Secretarial Letters, etc., referenced in this Order.

¹ *PUC Filing and Reporting Requirements on Local Exchange Carriers*, Docket No. M-00041857 (Order entered October 5, 2005).

² 66 Pa.C.S. §§ 3011–3019.

Background

In December 2004, the General Assembly enacted Act 183 which substantially amends the Public Utility Code relating to alternative forms of regulation for LECs and, in particular, contains provisions designed to reduce the present level of annual, quarterly and other periodic reporting requirements for LECs. Act 183 or Chapter 30 provides that the general filing and reporting requirements for LECs are limited to the nine reports specified in the statute, to be "submitted in the form determined by the Commission." 66 Pa.C.S. § 3015(e).

Section 3015(e) provides that the Commission's filing and audit requirements for a LEC that is operating under an amended network modernization plan are limited to the following: 1) network modernization reports filed under section 3014(f); 2) an annual financial report consisting of a balance sheet and income statement; 3) an annual deaf, speech-impaired and hearing-impaired relay information report; 4) an annual service report; 5) universal service reports; 6) an annual access line report; 7) an annual statement of gross intrastate operating revenues for purposes of calculating assessments for regulatory expenses; 8) an annual state tax adjustment computation for years in which a tax change has occurred, if applicable; and 9) for those companies with a bona fide retail request program, a bona fide retail request report under section 3014(c)(9).

Chapter 30 also provides for exceptions to this limitation. In particular, section 3015(f)(1) of Chapter 30 provides that "no report, statement, filing or other document or information, except as specified in subsection (e), shall be required unless the Commission, upon notice to the affected LEC and an opportunity to be heard, has first made specific written findings supporting conclusions in an entered order that:

(i) the report is necessary to ensure that the LEC is charging rates that are in compliance with the chapter and its effective alternative form of regulation;

(ii) the benefits of the report substantially outweigh the attendant expense and administrative time and effort required by the LEC to prepare it."

Section 3015(f)(2) also provides that nothing should be construed to impede the ability of the Commission to require the submission of further information to support the accuracy or to seek an explanation of the reports in subsection(e). Further, section 3019 retains the Commission's power to seek information necessary to review and revise its quality of service standards and establish customer protection requirements.³

On April 15, 2005, in accordance with the newly-enacted Chapter 30, the Commission entered a Tentative Implementation Order⁴ directing the continuation, consolidation, and/or elimination of the general filing and reporting requirements presently imposed on LECs operating in Pennsylvania. In its Tentative Order, the Commission sought comments on its initial determinations to maintain, streamline or eliminate certain LEC reports. Upon review of Chapter 30 and the submitted comments, the Commission entered a Final Implementation Order⁵ on October 5, 2005 determining which LEC reporting requirements should be maintained, streamlined or eliminated. Also, in the Final Implementation Order, the

³ 66 Pa.C.S. §§ 3019(b)(2) and (3).

⁴ *PUC Filing and Reporting Requirements on Local Exchange Carriers*, Docket No. M-00041857 (Order entered April 15, 2005).

⁵ *PUC Filing and Reporting Requirements on Local Exchange Carriers*, Docket No. M-00041857 (Order entered October 5, 2005).

Commission found that the Lifeline tracking reports and the accident and service outage reports are not within the scope of reports listed in section 3015(e). Therefore, the Commission directed that a new proceeding be opened to address the issue of whether these reports can meet the exception standard set forth in section 3015(f)(1).⁶ In its 3015(f)(1) review, the Commission determined on December 15, 2005 that accident reports are no longer required for telecommunications companies.⁷

Prior to the enactment of Act 183, in June 2004, the Pennsylvania House of Representatives passed House Resolution 786, that directed the Legislative Budget and Finance Committee (LB & FC) to conduct a study of the filing and reporting requirements imposed on LECs operating in Pennsylvania and to report its findings. On November 17, 2004, the LB & FC adopted its report (LB & FC Report) entitled *PUC Filing and Reporting Requirements on Local Exchange Carriers*.⁸ The LB & FC identified and analyzed the following 30 reports, filings and other documents: Annual Financial Report, Annual Report of Certificated Interexchange Transporter (IXCs), Annual Report of Residential Account Information, Financial Earnings Report, Annual Depreciation Report, Universal Service Fund contributions, Assessment Report, Annual Tracking of Telecommunications Relay Service Surcharges, Annual Access Line Report, Lifeline Tracking Report, State Tax Adjustment Surcharge, Physical and Cyber Security Planning Self Certification, State Certification of Universal Service Support, Chapter 30 Annual Price Stability Mechanism, Annual Assessment Bill, Interest Rate on Deposit, Monthly Universal Service Fund Carrier Worksheet, Quarterly Slamming Report, Quarterly Cramming Report, Accident Reports, Standard Service Surveillance Level Report, Traffic Usage Studies, Service Outages, Service Life Study Report, Capital Investment Plan Report, Service Records, Affiliated Interest Agreements, Network Modernization Plans, Supplemental Assessment, and Collocation Report.

This inventory of reports became the framework for the Commission's analysis of current LEC reporting requirements in light of the provisions of the new Chapter 30.

Discussion

Chapter 30 sets forth reporting requirements for LECs. Although various sections of Chapter 30 provide the Commission with the authority to require information from LECs, as stated previously, section 3015(e) provides that the Commission's filing and audit requirements for a LEC that is operating under an amended network modernization plan are limited to nine enumerated reports, subject to the previously mentioned exceptions.

Based on these provisions, the Commission, in its Final Implementation Order at Docket No. M-00041857, determined that certain LEC reporting requirements are to be eliminated. The Commission offers for public consideration this proposed rulemaking to eliminate certain reports currently filed by LECs. The reports proposed for elimination include the Financial Earnings Report (52 Pa. Code § 71.3); Annual Depreciation Report (52 Pa. Code § 73.3); Interest Rate on Deposits Report (52

Pa. Code § 64.41 and Order entered November 5, 1998 at Docket No. P-00981357); Service Life Study Report (52 Pa. Code § 73.5); Capital Investment Report (52 Pa. Code § 73.7); Quarterly Cramming Report (52 Pa. Code § 64.23); Quarterly Slamming Report (52 Pa. Code § 64.23) and the Collocation Report.⁹ In addition, the Commission is proposing to amend its regulations to require the filing of residential account information on an annual basis rather than on a quarterly basis as currently prescribed by § 64.201(b).

In a companion order addressing section 3015(f)(1) of Chapter 30, the Commission also determined that accident reports are no longer required because there is no adequate nexus relating to whether rates are just and reasonable as prescribed by Chapter 30 and Title 66. Accordingly, the Commission found that telecommunications companies do not have to file accident reports as required by our regulations at § 63.11.

1. Financial (Earnings) Report

The Commission's regulations at § 71.3¹⁰ currently require that certain LECs with annual intrastate gross revenue in excess of \$1 million file financial earnings reports. Companies with annual intrastate gross revenue in excess of \$1 million but less than \$10 million are currently required to file annually. Companies with annual intrastate gross revenue in excess of \$10 million must file semiannually. In 2001, the Commission streamlined the reporting requirements for financial earnings information by reducing the filing intervals as described above.¹¹

In its Tentative Implementation Order, the Commission decided to continue to waive the financial earnings report as required in our regulations at § 71.3¹² as set forth in the March 11, 2005 Secretarial Letter at Docket No. M-00041857. At the same time, the Commission directed staff to immediately initiate a rulemaking proceeding to eliminate this regulation, for telecommunications carriers only, in accordance with the discussion in the Tentative Implementation Order. Further, in accordance with section 703(g) of Title 66,¹³ the Commission concluded that it would rescind its December 4, 2001 Order that streamlined the reporting requirements for financial earnings information filed by LECs, subject to consideration of any comments to the contrary.

The Commission affirmed in its October 5, 2005 Final Implementation Order that the list of reports permitted by Chapter 30 does not include a separate financial earnings report of the type required by § 71.3 of our regulations. Therefore, the Commission proposes that this regulation be eliminated. On a going-forward basis, the Commission can rely on the income statement data in the

⁹ Presently, the collocation report requires ILECs or CLECs that collocate switches in Verizon Pennsylvania Inc.'s central offices to report such activity in accordance with the Commission's September 4, 2001 Order, *Bell-Atlantic Supplement to Pa. P.U.C. No. 216 and Pa. P.U.C. No. 218 to become effective July 27, 1999 regarding the FCC's New Requirements on Incumbent Local Exchange Carriers for the Provision of Collocation Service used for Exchange Access and Mandated Compliance via State Tariffs, SGATS and/or Individual Interconnection Agreements*, Docket No. R-00994697 (Order entered September 4, 2001). On February 14, 2005, the Commission eliminated this reporting requirement through a Secretarial Letter to all ILECs and CLECs. In the Final Implementation Order, we affirmed our determination concerning collocation reports and concluded that no further action is necessary. Since there is no current regulation concerning this reporting requirement, the elimination of this reporting requirement is in accordance with section 703(g) of Title 66 as discussed in our Tentative and Final Implementation Orders at Docket No. M-00041857.

¹⁰ Section 71.3 requires that LECs with annual intrastate gross revenue in excess of \$1 million file financial earnings reports. 52 Pa. Code § 71.3.

¹¹ *Adequacy and Interpretation of Existing Accounting Procedures and Financial Reporting Regulations for all Telecommunications Carriers*, Docket No. L-00010153 (Order entered December 4, 2001).

¹² 52 Pa. Code § 71.3.

¹³ 66 Pa.C.S. § 703(g).

⁶ Section 3015(f) Review regarding the Lifeline Tracking Report, Accident Report and Service Outage Report, Docket No. M-00051900 (Order entered October 5, 2005).

⁷ Section 3015(f) Review regarding the Lifeline Tracking Report, Accident Report and Service Outage Report, Docket No. M-00051900 (Order adopted December 15, 2005).

⁸ In its Report, the LB & FC had five primary recommendations. Overall, the LB & FC Report recommended that the Commission begin the process of eliminating regulations requiring reports to reduce the regulatory requirements for LECs in Pennsylvania. The LB & FC recommended that this process be performed in several ways including updating the Commission's current computer capability, consolidating similar information in various reports, and eliminating regulations requiring reports that have been temporarily waived, suspended or otherwise no longer required. LB & FC Report at S-3-4.

annual financial report¹⁴ permitted by section 3015(e)(1) to monitor the earnings and financial health of LECs.

2. Annual Depreciation Report

Section 73.3¹⁵ of the Commission's regulations requires LECs to file an annual depreciation report. This reporting requirement applies to all telecommunications carriers with over 50,000 access lines that have annual gross intrastate operating revenues in excess of \$20 million. Currently, eight telecommunications companies are required to file this annual report.¹⁶

The Commission determined, in its Tentative Implementation Order, that the annual depreciation report required at § 73.3¹⁷ of our regulations is waived and subject to elimination through the rulemaking process. The Commission determined that sections 3014(f)(1) and 3015(e)(1) require the filing of depreciation reports in the form specified by §§ 73.3 and 73.4 with NMP biennial reports. At the same time, the Commission directed staff to determine whether a streamlined form of the information specified in §§ 73.3 and 73.4 can be adequate to verify LEC compliance with its NMP obligations.

In its October 5, 2005 Final Implementation Order, the Commission concluded that the list of reports permitted by Chapter 30 does not include a separate annual depreciation report of the type required by § 73.3 of our regulations. Nevertheless, depreciation information must be submitted in a LEC's NMP biennial report in accordance with section 3014(f)(1)¹⁸ in the format required as of July 1, 2004. Because the list of reports permitted by section 3015(e) does not include a separate annual depreciation report and the LECs' NMP reports will include the appropriate annual depreciation information needed to verify the companies' NMP obligations, we propose that the annual depreciation report required by our regulations be eliminated.

3. Interest Rate on Deposits

Section 64.41 of the Commission's regulations¹⁹ currently require, that LECs pay interest rates on customer deposits on a yearly basis. This information is required to be reported to the Commission by its 1998 Order at Docket No. P-00981357.²⁰ The purpose of the reporting is to compare customer deposits taken for the current year with that of prior years.

In the Tentative Implementation Order, the Commission found that the interest rate on deposits report is no longer needed as a separate filing with the Commission. Therefore, we concluded that this reporting requirement should be eliminated for telecommunications carriers.

No comments were filed concerning the Commission's tentative determination that the interest rate on deposits report was no longer needed. Therefore, the Commission

affirmed its decision in the Final Implementation Order that this reporting requirement is no longer needed as a separate filing with the Commission. The Commission rescinded its Order at Docket No. P-00981357 in accordance with section 703(g) of the Public Utility Code²¹ to eliminate this reporting requirement.

At this juncture, we propose to modify our regulation at § 64.41 to reflect that the LECs are no longer required to pay an interest rate of 9% per annum on customer deposits. In the Commission's Order at Docket No. P-00981357, we determined that all jurisdictional LECs must calculate interest rates on customer deposits based on the rates of the interest posted for 1-year U.S. Treasury bills for the months of September, October, and November of the previous year. However, this standard, the 1-year Treasury bill, is no longer issued by the United States Treasury Department.²² Therefore, we propose to update § 64.41 of our regulations to incorporate the interest rate for customer deposits as set forth in Chapter 14 of the Public Utility Code.²³

4. Service Life Study Report

Section 73.5 of our regulations²⁴ requires telephone utilities providing telephone service with over 50,000 access lines or having gross operating revenues in excess of \$20 million per year to file service life study reports triennially to reflect estimates for each depreciable group of utility plant used in determining annual depreciation expense. Currently, this reporting requirement applies to the eight largest incumbent local exchange carriers (ILECs) but has been waived since 2001.²⁵

In our Tentative Implementation Order, the Commission determined that the list of reports permitted by Chapter 30 does not include a separate service life study report of the type required by § 73.5 of our regulations. We also concluded that this reporting requirement should be waived and staff should commence a rulemaking proceeding to eliminate the regulation. In addition, the Commission concluded that each LEC remains obligated to file service life study information in the form specified by § 73.5 of our regulations as part of the NMP biennial report consistent with sections 3014(f)(1) and 3015(e)(1) of Chapter 30.²⁶

In the Commission's Final Implementation Order, we affirmed that, based upon our review of Chapter 30 at section 3015(e), the list of reports did not include a separate service life study report of the type required by § 73.5 of our regulations. In addition, we noted that this reporting requirement has been waived since 2001. At the same time, we noted that sections 3014(f)(1) and 3015(e)(1) continue to require the filing of biennial reports in the detail and form required by the Commission as of July 1, 2004,²⁷ unless the Commission reduces such reporting requirements.²⁸ Because the list of reports

¹⁴ LECs continue to be required to file annual financial reports in accordance with the Commission's regulations at section 63.36, 52 Pa. Code § 63.63. The form of the annual financial report for LECs has been determined by our Final Implementation Order regarding LEC reporting requirements. *PUC Filing and Reporting Requirements on Local Exchange Carriers*, Docket No. M-00041857 (Order entered October 5, 2005).

¹⁵ 52 Pa. Code § 73.3.
¹⁶ Alltel, Commonwealth Telephone Company, Conestoga Telephone Company, D&E Telephone Company, North Pittsburgh Telephone Company, United Telephone Company, Verizon North Inc. and Verizon Pennsylvania Inc. LB & FC Report at 11.

¹⁷ 52 Pa. Code § 73.3.
¹⁸ The Commission notes that sections 3014(f)(1) and 3015(e)(1) continue to require the filing of biennial reports in the detail and form required by the Commission as of July 1, 2004, unless the Commission reduces such reporting requirements. The Commission's reporting requirements for biennial updates currently include a requirement to file depreciation reports in the form specified by sections 73.3—73.4. However, we note that the Commission staff remains obligated to review and explore means to streamline, where appropriate, the annual depreciation information submitted in the LECs' NMP reports.

¹⁹ 52 Pa. Code § 64.41.
²⁰ *Petition of the Pennsylvania Telephone Association for Waiver of the Pennsylvania Public Utility Commission's Regulation at 52 Pa. Code § 64.41*, Docket No. P-00981357 (Order entered November 5, 1998).

²¹ 66 Pa.C.S. § 703(g).

²² See www.treas.gov.

²³ 66 Pa.C.S. § 1404(c)(6). This section states that the interest rate on customer deposits for electric, gas and water utilities is set at the legal rate of interest under section 202 of the act of January 30, 1974 (P.L. 13, No. 6), referred to as the Loan Interest and Protection Law. Currently, this interest rate is approximately 6 percent.

²⁴ 52 Pa. Code § 73.5.

²⁵ *Petition of Alltel Pennsylvania, Inc. Commonwealth Telephone Co., Conestoga Telephone and Telegraph Co., D & E Telephone Co. and North Pittsburgh Telephone Co. for a Temporary Waiver of Service Life Study Reporting Requirements Pursuant to 52 Pa. Code § 73.5(b)*, Docket No. P-00011885 (Order entered June 21, 2001).

²⁶ 66 Pa.C.S. §§ 3014(f)(1) and 3015(e)(1).

²⁷ *Implementation of Chapter 30 of the Public Utility Code: Reporting Requirements for Biennial Updates of Network Modernization Plans Filed Pursuant to 66 Pa.C.S. § 3003(b)(6)*, Docket No. M-00930441 (Order entered May 17, 1999).

²⁸ The Commission's reporting requirements for biennial updates currently includes a requirement to file service life study reports in the form specified by section 73.5. However, we note that the Commission staff remains obligated to review and explore means to streamline, where appropriate, the service life information submitted in the LECs' NMP reports.

permitted by section 3015(e) does not include a separate service life study report and the LECs' NMP reports will include the appropriate service life information needed to verify the companies' NMP obligations, we propose that the service life study report required by our regulations be eliminated.

5. Capital Investment Plan Report

Section 73.7 of our regulations²⁹ requires a telephone utility having gross intrastate revenues in excess of \$20 million per year or in excess of 50,000 access lines to file a capital investment plan report every three years.³⁰ Currently, this requirement applies to the eight largest ILECs but has been waived since 2001.³¹ The report provides an overview of plans for major project expansion, modification or other alteration of current and proposed facilities.³² This report documents the companies' plans for future plant investment so that any imprudent plant expenditures could be detected. This report provides information regarding investment in the Commonwealth infrastructure and is reviewed in conjunction with the utilities' NMPs.³³

In our Tentative Implementation Order, the Commission determined that the list of reports permitted by Chapter 30 does not include a separate capital investment plan report of the type required by § 73.7 of our regulations. We also concluded that this reporting requirement should be waived and staff should commence a rulemaking proceeding to eliminate the regulation. However, we concluded that each LEC remains obligated to file a capital investment plan report in the form specified by § 73.7 of our regulations as part of the NMP biennial report consistent with sections 3014(f)(1) and 3015(e)(1).

In the Final Implementation Order, the Commission affirmed that the list of reports permitted by Chapter 30 does not include a capital investment plan report of the type required by § 73.7 of our regulations. As stated previously, the Commission noted that sections 3014(f)(1) and 3015(e)(1) continue to require the filing of biennial reports in the detail and form required by the Commission as of July 1, 2004,³⁴ unless the Commission reduces such reporting requirements. The Commission's reporting requirements for biennial updates currently includes a requirement to file capital investment plan reports in the form specified by § 73.7. Indeed, the specific information contained in such capital investment plan reports will be critical to the Commission's ability to evaluate compliance with broadband deployment commitments.³⁵ Because the list of reports permitted by section 3015(e) does not include a separate capital investment plan report and the LECs' NMP reports will include the appropriate capital investment information needed to verify the companies' NMP obligations, we propose that the capital investment plan report required by our regulations be eliminated.

²⁹ 52 Pa. Code § 73.7.

³⁰ The affected ILECs are as follows: Alltel, Commonwealth Telephone Company, Conestoga Telephone Company, D & E Telephone Company, North Pittsburgh Telephone Company, United Telephone Company, Verizon North Inc., and Verizon Pennsylvania Inc.

³¹ *Petition of Alltel Pennsylvania, Inc., Commonwealth Telephone Co., Conestoga Telephone and Telegraph Co., D & E Telephone Co. and North Pittsburgh Telephone Co. for a Temporary Waiver of the Capital Investment Plan Reporting Requirement Pursuant to 52 Pa. Code § 73.7*, Docket No. P-00011917 (Order entered December 5, 2001).

³² LB&FC Report at 34.

³³ *Id.*

³⁴ *Implementation of Chapter 30 of the Public Utility Code: Reporting Requirements for Biennial Updates of Network Modernization Plans Filed Pursuant to 66 Pa.C.S. § 3003(b)(6)*, Docket No. M-00930441 (Order entered May 17, 1999).

³⁵ However, as with the annual depreciation and service life information, we note that Commission staff remains obligated to review and develop means to streamline, where appropriate, the capital investment plan information for the LECs' NMP reports.

6. Quarterly Cramming Reports

The Commission's regulation in § 64.23(a)(6)³⁶ requires ILECs to file quarterly cramming reports. The Commission previously granted waivers of this requirement to ILECs having fewer than 50,000 access lines,³⁷ however, all ILECs regardless of access line counts must retain records of customer complaints alleging cramming for three years.³⁸ These quarterly reports have provided the Commission with data to monitor cramming complaints received by ILECs with 50,000 or more residential accounts and by CLECs.

In the Tentative Implementation Order, we concluded that the quarterly cramming reports should be discontinued because the Commission does not have jurisdiction over the entities that are primarily responsible for cramming.³⁹ Therefore, in our Tentative Order, we directed staff to immediately initiate a rulemaking to revise § 64.23(a)(6) to eliminate this reporting requirement. In addition, the Commission waived the filing of cramming reports until such time as our revised regulations receive final regulatory approval.

In our Final Implementation Order, the Commission agreed with comments filed by the Office of Consumer Advocate (OCA) that the Commission retains jurisdiction over cramming charges that appear on LEC bills by IXC or non-IXC carriers. Chapter 30 at section 3018(b) clearly retains the Commission's authority to regulate the ordering, installation, restoration and disconnection of interexchange service to customers. In addition, section 3018(d) also provides authority to the Commission to resolve complaints regarding the quality of IXC service.⁴⁰ Further, we agree with the PTA and the OCA that the Commission retains additional authority under section 3019(b)(2) of Chapter 30 to review and revise quality of service standards addressing the ordering, installation, suspension, termination and restoration of any telecommunications service.⁴¹

However, upon our review of Chapter 30, we continue to conclude that we do not retain jurisdiction over many of the entities that may cram charges on LECs bills to customers. Because of this determination, we propose that the quarterly cramming reporting requirement at § 64.23(a)(6) be eliminated consistent with the discussion in our Tentative and Final Implementation Orders.

7. Quarterly Slamming Reports

Quarterly slamming⁴² reports are required by Commission regulation in § 64.23(b)(7) and Commission order.⁴³ Waivers of this requirement have been granted to ILECs having fewer than 50,000 access lines,⁴⁴ however, all ILECs regardless of access line counts must retain records of customer allegations of slamming for three years.⁴⁵ In the past, these reports have provided the Commission with data to monitor local and long

³⁶ 52 Pa. Code § 64.23(a)(6).

³⁷ *Petition of PA Telephone Association for Waiver of Requirements at 52 Pa. Code § 64.23(a)(6) and (b)(7)*, Docket No. P-00032050 (Order entered September 18, 2003).

³⁸ See 52 Pa. Code § 64.23(a)(6).

³⁹ Cramming is unauthorized charges added to the customer's bill. 52 Pa. Code § 64.23(a). The three year record keeping requirement and quarterly reporting requirement to the Commission is set forth at 52 Pa. Code § 64.23(a)(6).

⁴⁰ 66 Pa.C.S. § 3018(b) and (d).

⁴¹ 66 Pa.C.S. § 3019(b)(2).

⁴² Slamming is an unauthorized change to the customer's long distance carrier. 52 Pa. Code § 64.23(b).

⁴³ *Proposed Rulemaking and Final Interim Guidelines for Standardizing Local Exchange Company Responses to Customer Contacts Alleging Unauthorized Changes to Customers' Telecommunications Service Providers and Unauthorized Charges to Customers' Bills*, Docket Nos. L-00990140 and M-00981063 (Order entered January 14, 1999).

⁴⁴ *Petition of PA Telephone Association for Waiver of Requirements at 52 Pa. Code § 64.23(a)(6) and (b)(7)*, Docket No. P-00032050 (Order entered September 18, 2003).

⁴⁵ See 52 Pa. Code § 64.23(b)(7).

distance slamming complaints received by ILECs with 50,000 or more residential accounts and CLECs.⁴⁶

In its Tentative Implementation Order, the Commission determined that LECs are no longer required to file long distance slamming reports. Since the FCC is responsible for administering and enforcing its slamming liability rules at 47 CFR 64.1140—1180 for interexchange carriers, the Commission found that there is no public need to require reporting in this area. Concurrently, the Commission determined, in the Tentative Order, that information documenting the occurrence of local slamming⁴⁷ remains vital to monitoring the quality of local telephone service, particularly the quality of customer service and consumer protection. Therefore, the Commission concluded that section 3015(e)(4) allows the Commission to require information regarding customer service to be filed in an annual service report so that the Commission can fulfill its statutory duties of service quality and consumer protection.

In reviewing the comments submitted and the provisions of Chapter 30, the Commission affirmed in its Final Implementation Order that LECs are no longer required to report long distance slamming under the discussion in that Order. Concerning local slamming, the Commission agreed with the participants that urged the Commission to eliminate the local slamming report. Although the Commission determined that section 3019(b)(2) clearly retains the authority to address service standards and consumer protection, we found that the local slamming report should be eliminated with the caveat that incidents of local slamming should continue to be maintained by the LECs for a minimum of three years as required by our regulations at § 64.23(b)(7). In addition, in the event that the Commission requests slamming information for inspection and review, we ordered that the LECs continue to be required to furnish such information to the Commission upon request in accordance with sections 505 and 506 of Title 66. Therefore, the Commission ordered that a rulemaking be initiated to revise its regulations to eliminate reporting as required by our regulations at § 64.23(b)(7) for long distance and local slamming complaints. The Commission further determined that a waiver of the quarterly report filing will remain in effect until such time as regulations revised in accordance with this discussion receive final regulatory approval.

Therefore, the Commission proposes to eliminate the quarterly reporting obligation for both long distance and local slamming as required by our regulations at § 64.23(b)(7). In addition, the Commission initiates this rulemaking to eliminate the LECs' obligation to report incidents of long distance slamming under the discussion in this Order. However, the 3-year maintenance requirement for all records of customer allegations of slamming in § 64.23(b)(7) is a recordkeeping requirement and not a reporting requirement and as such, remains in effect for all LECs pending further regulatory action.

8. Residential Account Information

The Commission's regulation in § 64.201(a) and (b)⁴⁸ requires LECs to file residential account information reflecting billing and collection practices including customer disputes. Section 64.201(a) requires LECs that have less than 50,000 residential accounts to file an annual report by March 31 containing information about

their residential accounts as prescribed by § 64.201(c)⁴⁹ of the regulation. Section 64.201(b) requires that LECs with more than 50,000 residential accounts file quarterly and annual reports containing information about their residential accounts as prescribed by § 64.201(c) of the regulation.⁵⁰

In the Tentative Implementation Order, the Commission determined that, in accordance with Chapter 30, the information currently required at § 64.201(a) and (b) is to be filed on an annual basis as part of the annual service report listed in section 3015(e)(4).⁵¹ The Commission based its tentative conclusion on section 3019(b)(2) of Chapter 30 that retains the Commission's authority to review and revise its regulations concerning the ordering, installation, suspension and termination of any telecommunication service. Also, the Commission determined that our regulation in § 64.201(b) that requires quarterly filings be waived to reduce the filing to an annual basis to comply with Chapter 30. Thus, we directed Commission staff to begin a rulemaking to eliminate the quarterly filings of the information required at § 64.201(b) if no adverse comments were received.

In the Final Implementation Order, the Commission determined that both incumbent and competitive LECs will continue to provide information in accordance with our current regulation in § 64.201 but on an annual basis. Also, the Commission found that the use of standardized data permits the Commission to compare companies on service quality issues over time as permitted by section 3019 of Chapter 30 so that it can review and revise its regulations to address and update service quality standards.

Therefore, we propose to change the quarterly filings requirement at § 64.201 to annual reporting consistent with the provisions of Chapter 30 and the discussion in our previous orders.

9. Accident Reports

Accident reports, as required by the Commission's regulation in § 63.11 and section 1508 of Title 66,⁵² require all public utilities, including LECs, to file reports following an accident resulting in the death of a person or an occurrence of an unusual nature. The purpose of the report is to have information provided to the Commission so that it can monitor serious accidents involving facilities or operations of all public utilities.⁵³

In its Final Order addressing section 3015(f) of Chapter 30, the Commission determined that accident reports do not have a direct nexus to the rates charged by LECs in accordance with Chapter 30 and their alternative forms of regulation sufficient to satisfy section 3015(f)(1)(i). Ac-

⁴⁹ 52 Pa. Code § 64.201(c) requires that LECs include information regarding the average number of residential accounts per month, the average monthly residential customer bill, the average number of overdue residential accounts per month, the average overdue residential customer bill per month, the average number of residential basic service suspension notices and suspensions per month, LECs' gross revenues from residential accounts, LECs' gross and net write-offs of uncollectible residential accounts, and the total number of Chapter 64 disputes.

⁵⁰ The LB & FC Report states that the Commission uses these reports to monitor all LECs billing and collection practices and billing dispute volumes to determine trends in customer service including problem areas and corrective actions. The LB&FC Report also indicates that this information is used by the Commission for operational audits and measuring residential telecommunications competition. LB&FC Report at 7.

⁵¹ 66 Pa.C.S. § 3014(e)(4).

⁵² Pa. Code § 63.11 and 66 Pa.C.S. § 1508. Specifically, section 1508 provides that every public utility give immediate notice to the Commission of any accident in or about, or in connection with, the operation of its service and facilities, when a person has been killed or injured.

⁵³ LB & FC Report at 28.

⁴⁶ LB & FC Report at 25.

⁴⁷ Slamming is an unauthorized change to the customer's long distance carrier. 52 Pa. Code § 64.23 (b).

⁴⁸ 52 Pa. Code §§ 64.201(a) and (b).

cordingly, the Commission found that accident reports are no longer required under our regulation in § 63.11 and section 1508 of Title 66.⁵⁴

Therefore, we propose to eliminate the accident reporting obligation, on a per occurrence basis, for telecommunications companies as required by our regulation in § 63.11.

Conclusion

The Commission seeks comment regarding the proposed changes in our regulations from the telecommunications industry and the statutory advocates, as well as from any other interested member of the public. Interested parties will have 30 days from the publication of this order to file comments. We advise those that will be submitting comments in this proceeding to include specific section references to the proposed regulations. We are committed to completing the revisions to our procedural regulations in a timely fashion and, therefore, absent good cause, no extensions will be granted for the filing of comments. Accordingly, under section 501 of the Public Utility Code, 66 Pa.C.S. § 501, and the act of July 31, 1968 (P. L. 769, No. 240), known as the Commonwealth Documents Law, and regulations promulgated there under at 1 Pa. Code §§ 7.1—7.4, we amend the regulations as previously noted and as set forth in Annex A; *Therefore*,

It Is Ordered That:

1. A rulemaking proceeding is hereby initiated at this docket to consider the revisions to regulations set forth in Annex A.

2. The Secretary shall submit a copy of this order and Annex A to the Office of Attorney General for preliminary review as to form and legality.

3. The Secretary shall submit a copy of this order and Annex A to the Governor's Budget Office for review of fiscal impact.

4. The Secretary shall submit this order and Annex A for review and comments by the Independent Regulatory Review Commission and the designated Legislative Standing Committees.

5. The Secretary shall certify this order and Annex A and deposit them with the Legislative Reference Bureau to be published in the *Pennsylvania Bulletin*.

6. A copy of this order and Annex A shall be served upon the Office of Consumer Advocate, the Office of Small Business Advocate, the Office of Trial Staff, and upon all jurisdictional local exchange carriers.

7. Interested persons may submit an original and 15 copies of any comments referencing the docket number of the proposed rulemaking within 30 days of publication in the *Pennsylvania Bulletin* to the Pennsylvania Public Utility Commission, Attn: Secretary, P. O. Box 3265, Harrisburg, PA 17105-3265. One copy of a diskette containing the comments in electronic format should also be submitted. A courtesy copy of written comments shall be served upon the Commission's Law Bureau, ATTN: Assistant Counsel Lois Burns.

8. Comments should include, when appropriate, a numerical reference to the proposed regulations that the comment addresses, any proposed language for revision, and a clear explanation for the recommendation.

9. The contact person for this rulemaking is Lois Burns, Assistant Counsel, Law Bureau, (717) 787-5000. Alternate formats of this document are available to persons with disabilities and may be obtained by contacting Sherri DelBiondo, Regulatory Coordinator, Law Bureau, (717) 772-4579.

JAMES J. MCNULTY,
Secretary

Fiscal Note: 57-247. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 52. PUBLIC UTILITIES

PART I. PUBLIC UTILITY COMMISSION

Subpart C. FIXED SERVICE UTILITIES

CHAPTER 63. TELEPHONE SERVICE

Subchapter B. SERVICES AND FACILITIES

§ 63.11. [**Accident reports**] (Reserved).

[**(a) General.** A public utility shall submit a report of a reportable accident involving the facilities or operations of the public utility in this Commonwealth. The report shall be addressed to the Secretary of the Commission.

[**(b) Reportable accidents.** Reportable accidents are those involving utility facilities or operations which result in one or more of the following circumstances:

(1) The death of a person.

(2) Injury to an employe on duty sufficient to incapacitate him from performing his ordinary duties for a period longer than 3 days.

(3) Injury to a person other than an employe on duty sufficient to incapacitate the injured person from following his customary vocation, or mode of life, for a period of more than 1 day.

(4) An occurrence of an unusual nature, whether or not death or injury of a person results, which apparently will result in a prolonged and serious interruption of normal service.

[**(c) Telegraphic reports.** A report by telephone or telegraph shall be made at once in the event of the occurrence of a reportable accident resulting in the death of a person, or in the event of an occurrence of an unusual nature.

[**(d) Written reports.** A written report shall be made on Form UCTA-8 immediately following the occurrence of a reportable accident as defined in subsection (b). Accidents reportable to the Commission, which reports are also required by the Bureau of Workmen's Compensation, Department of Labor and Industry, may be reported by transmitting a copy of the reports in lieu of a report on Form UCTA-8.]

⁵⁴ 52 Pa. Code § 63.11 and 66 Pa.C.S. § 1508. *Section 3015(f) Review regarding the Lifeline Tracking Report, Accident Report and Service Outage Report*, Docket No. M-00051900 (Order adopted December 15, 2005).

CHAPTER 64. STANDARDS AND BILLING PRACTICES FOR RESIDENTIAL TELEPHONE SERVICE

Subchapter B. PAYMENT AND BILLING STANDARDS

§ 64.23. Standardizing LEC responses to customer contacts alleging unauthorized charges added to the customer's bill (cramming) and unauthorized changes to the customer's long distance carrier (slamming).

(a) *Cramming.* Upon contact from a customer alleging that cramming has occurred on the bill rendered to the customer by the LEC, the LEC shall do the following:

* * * * *

(6) Maintain for a minimum of 3 years records of all customer complaints of cramming in order to monitor adherence to the terms of the billing contract the LEC has with the service provider or billing agent, or both, relating to cancellation of the contract for excessive cramming complaints. **[Submit quarterly reports summarizing the records to the Commission's Office of Trial Staff and Bureau of Consumer Services in a format prescribed by those bureaus.]**

(b) *Slamming.* Upon contact from a customer alleging that slamming has occurred on one or both of the past two bills rendered to the customer by the LEC, regardless of dates of charges, the LEC shall do the following:

* * * * *

(7) Maintain for a minimum of 3 years records of all customer allegations of slamming **[and submit quarterly reports summarizing the records to the Commission's Office of Trial Staff and Bureau of Consumer Services in a format prescribed by those bureaus].**

Subchapter C. CREDIT AND DEPOSIT STANDARDS POLICY

§ 64.41. Interest.

Interest **[at the rate of 9% per annum]** calculated under section 202 of the act of January 30, 1974 (P. L. 13, No. 6) (41 P. S. § 202), known to as the **Loan Interest and Protection Law**, shall be payable on deposits without deductions for taxes thereon. Interest shall be paid annually to the customer or, at the option of either the LEC or the customer, shall be applied to the customer's bill.

Subchapter J. ANNUAL LEC REPORTING REQUIREMENTS

§ 64.201. Reporting requirements.

(a) **[Utilities with less than 50,000 residential accounts.] Annual report.** Within 90 days after the end of each calendar year, each LEC with **[less than 50,000]** residential accounts shall file with the Commission an annual report containing residential account information as listed in subsection **[(c)] (b)** for the previous calendar year.

(b) **[Utilities with more than 50,000 residential accounts.]** Within 90 days after the end of each of the first 3 quarters of the calendar year, each LEC with 50,000 or more residential accounts shall file with the Commission a quarterly report containing residential account information as listed in subsec-

tion (c)(1)—(7) and (11). The LEC shall also file an annual report containing residential account information as listed at subsection (c) within 90 days after the end of the calendar year.

(c) *Elements of periodic reporting.* The following **[shall]** must be included in periodic reporting as required under this section:

* * * * *

CHAPTER 71. FINANCIAL REPORTS

§ 71.3. Filing requirements.

* * * * *

(b) **[Incumbent local exchange telecommunications utilities with annual intraState gross revenues in excess of \$10 million shall file a financial report for the 12-month period ending each June 30 and December 31.]**

(c) The following public utilities shall file a financial report for the 12-month period ending each December 31:

* * * * *

(2) **[Incumbent local exchange telecommunications utilities with annual intraState gross revenues in excess of \$1 million but which do not exceed \$10 million.]**

(3) Gas distribution utilities having annual intraState gross revenues in excess of \$1 million but which do not exceed \$10 million.

[(4)] (3) * * *

[(d)] (c) * * *

[(e)] (d) * * *

CHAPTER 73. ANNUAL DEPRECIATION REPORTS, SERVICE LIFE STUDIES AND CAPITAL INVESTMENT PLANS

§ 73.3. Annual depreciation reports.

(a) A public utility providing electric service, gas service or water service which has gross **[intrastate] intraState** revenues in excess of \$20 million per year, except telecommunications interexchange carriers and gas and petroleum transportation pipeline companies, shall file an annual depreciation report with the Office of Special Assistants under this chapter. **[Public utilities providing telephone service with over 50,000 access lines or which have gross operating revenues in excess of \$20 million per year shall also be required to file an annual depreciation report.]**

(b) The due dates for the annual depreciation report are as follows:

(1) Electric, water **[, telephone]** and gas public utilities reports are due on or before June 30.

* * * * *

§ 73.5. Service life study report.

* * * * *

(b) **[A telephone utility having gross intrastate revenues in excess of \$20 million per year, except telecommunications interexchange carriers, resellers' of telecommunication services and radio common carriers, shall file a service life study report every 3 years. Public utilities providing telephone service with over 50,000 access lines or having**

gross operating revenues in excess of \$20 million per year shall also be required to file a service life study report. The first service life study report shall be filed with the Office of Special Assistants by August 31, 1998.

(c)] The due dates for the service life study report are as follows:

(1) Electric, water[, telephone] and gas public utilities are due on or before August 31.

* * * * *

§ 73.7. Capital investment plan report.

* * * * *

(b) [A telephone utility having gross intrastate revenues in excess of \$20 million per year or access

lines in excess of 50,000, except telecommunications interexchange carriers, resellers' of telecommunication services and radio common carriers, shall file a capital investment plan report every 3 years. The first capital investment plan report shall be filed with the Office of Special Assistants by August 31, 1998.

(c)] Thereafter, the capital investment plan report for electric, water[, telephone] and gas public utilities shall be filed with the Office of Special Assistants on or before August 31 of the year in which the report is due.

[(d)] (c) * * *

[Pa.B. Doc. No. 06-658. Filed for public inspection April 21, 2006, 9:00 a.m.]

NOTICES

DEPARTMENT OF AGRICULTURE

Interstate/International Quarantine Order; Vesicular Stomatitis

Recitals

A. Vesicular stomatitis is an infectious viral disease that primarily affects horses, cattle and swine.

B. Vesicular stomatitis is designated a "dangerous transmissible disease" of animals under 3 Pa.C.S. § 2321(a)(40) (relating to dangerous transmissible diseases).

C. The Department of Agriculture (Department) has broad authority under 3 Pa.C.S. §§ 2301—2389 (relating to the Domestic Animal Law) to regulate the keeping and handling of domestic animals to exclude, contain or eliminate dangerous transmissible diseases. This includes the authority in 3 Pa.C.S. § 2329 (relating to quarantine) to issue the interstate/international quarantine order as follows.

D. Vesicular stomatitis exists in other states and nations, and the transporting of infected animals from these states or nations could spread that disease among susceptible domestic animals in this Commonwealth.

E. There are reasonable and relatively unintrusive quarantine restrictions the Department can impose in order to prevent vesicular stomatitis from entering this Commonwealth.

Order

The Department enters an interstate/international quarantine order with respect to vesicular stomatitis, incorporating the foregoing recitals into this order. This order is entered under authority of 3 Pa.C.S. § 2329 and establishes the following restrictions and conditions:

1. No hooved animals may enter this Commonwealth if vesicular stomatitis has been diagnosed within 10 miles of the premises of origin within the past 90 days.

2. All hooved animals entering this Commonwealth from a state in which vesicular stomatitis has been diagnosed within the past 12 months shall be examined by an accredited veterinarian to determine whether they are free from vesicular stomatitis, and shall be accompanied by a Certificate of Veterinary Inspection with the following written statement signed by that accredited veterinarian:

All animals identified on this Certificate of Veterinary Inspection have been examined and found to be free from vesicular stomatitis. During the past 90 days, these animals have neither been exposed to vesicular stomatitis nor located within 10 miles of a site where vesicular stomatitis has been diagnosed.

3. This order will be automatically rescinded on December 31, 2006, unless extended under the previous authority.

4. This order is effective as of April 10, 2006.

DENNIS C WOLFF,
Secretary

[Pa.B. Doc. No. 06-659. Filed for public inspection April 21, 2006, 9:00 a.m.]

DEPARTMENT OF BANKING

Action on Applications

The Department of Banking (Department), under the authority contained in the act of November 30, 1965 (P. L. 847, No. 356), known as the Banking Code of 1965; the act of December 14, 1967 (P. L. 746, No. 345), known as the Savings Association Code of 1967; the act of May 15, 1933 (P. L. 565, No. 111), known as the Department of Banking Code; and the act of December 9, 2002 (P. L. 1572, No. 207), known as the Credit Union Code, has taken the following action on applications received for the week ending April 11, 2006.

BANKING INSTITUTIONS

Holding Company Acquisitions

<i>Date</i>	<i>Name of Corporation</i>	<i>Location</i>	<i>Action</i>
4-5-06	Orrstown Financial Services, Inc., Shippensburg, to acquire 100% of the voting shares of The First National Bank of Newport, Newport	Shippensburg	Approved
4-6-06	Franklin Financial Services Corporation, Chambersburg, to acquire 100% of voting shares of Fulton Bancshares Corporation, McConnellsburg	Chambersburg	Filed

Consolidations, Mergers and Absorptions

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
4-6-06	Farmers and Merchants Trust Company of Chambersburg and Fulton County National Bank and Trust Company, McConnellsburg Surviving Institution— Farmers and Merchants Trust Company of Chambersburg	Chambersburg	Filed

Branch Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
3-22-06	Orrstown Bank Shippensburg Cumberland County	201 South Cleveland Avenue Hagerstown Washington County, MD	Opened
4-3-06	Abington Savings Bank Jenkintown Montgomery County	1111 East Road Warrington Bucks County	Opened
4-11-06	Abington Savings Bank Jenkintown Montgomery County	Maris Grove Retirement Community 100 Maris Grove Way Glen Mills Delaware County (Limited Service Facility)	Filed

Branch Relocations

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
3-25-06	Beneficial Mutual Savings Bank Philadelphia Philadelphia County	<i>To:</i> 1200 West Township Line Road Havertown Delaware County <i>From:</i> 1230 Township Line Road Drexel Hill Delaware County	Effective

Branch Discontinuances

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
3-30-06	Citizens Bank of Pennsylvania Philadelphia Philadelphia County	3890 Bigelow Boulevard Pittsburgh Allegheny County (Limited Service Facility)	Effective
3-31-06	Citizens Bank of Pennsylvania Philadelphia Philadelphia County	392 Franklin Avenue Aliquippa Beaver County	Effective
3-31-06	Citizens Bank of Pennsylvania Philadelphia Philadelphia County	1122 Seventh Avenue Beaver Falls Beaver County	Effective
3-31-06	Citizens Bank of Pennsylvania Philadelphia Philadelphia County	419 N. 7th Street Altoona Blair County	Effective

SAVINGS INSTITUTIONS

No activity.

CREDIT UNIONS

No activity.

The Department's website at www.banking.state.pa.us includes public notices for more recently filed applications.

A. WILLIAM SCHENCK, III,
Secretary

[Pa.B. Doc. No. 06-660. Filed for public inspection April 21, 2006, 9:00 a.m.]

Maximum Lawful Rate of Interest for Residential Mortgages for the Month of May 2006

The Department of Banking (Department), under the authority contained in section 301 of the act of January 30, 1974 (P. L. 13, No. 6) (41 P. S. § 301), hereby determines that the maximum lawful rate of interest for residential mortgages for the month of May 2006 is 7 1/4%.

The interest rate limitations under the State's usury statute were preempted to a great extent by Federal law, the Depository Institutions Deregulation and Monetary Control Act of 1980 (Pub. L. No. 96-221). Further preemption was instituted with the signing of Pub. L. No. 96-399, which overrode State interest rate limitations on any individual who finances the sale or exchange of residential real property which the individual owns and which the individual occupies or has occupied as the principal residence.

Each month the Department is required by State law to compute and announce the ceiling rate on residential mortgages in this Commonwealth. This maximum rate is determined by adding 2.50 percentage points to the yield rate on long-term government bonds as published by the Federal Reserve Board and/or the United States Treasury. The latest yield rate on long-term government securities is 4.81 to which was added 2.50 percentage points for a total of 7.31 that by law is rounded off to the nearest quarter at 7 1/4%.

A. WILLIAM SCHENCK, III,
Secretary

[Pa.B. Doc. No. 06-661. Filed for public inspection April 21, 2006, 9:00 a.m.]

DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT

Weatherization Assistance Program State Plan Public Hearing

The Department of Community and Economic Development (Department) will hold a public hearing at 10 a.m. on Wednesday, May 10, 2006, in Conference Room 4 East, 4th Floor, Commonwealth Keystone Building, 400 North Street, Harrisburg, PA. The purpose of this hearing is to receive comments on the Weatherization Assistance Program's proposed State Plan to be submitted to the United States Department of Energy for the program year 2006-2007.

A copy of this plan may be obtained by contacting the Department of Community and Economic Development, Center for Community Services, 4th Floor, Commonwealth Keystone Building, 400 North Street, Harrisburg, PA 17120, (717) 787-1984.

Written comments may be submitted to Jamesetta Reed, Director, Center for Community Services, 4th Floor, Commonwealth Keystone Building, 400 North Street, Harrisburg, PA 17120 until 5 p.m. on May 10, 2006.

Persons with a disability who wish to attend this hearing and require auxiliary aid, services or other accommodations to participate in the proceedings should contact Susan Butler at (717) 787-1984 to discuss how the Department may accommodate their needs.

DENNIS YABLONSKY,
Secretary

[Pa.B. Doc. No. 06-662. Filed for public inspection April 21, 2006, 9:00 a.m.]

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Applications, Actions and Special Notices

APPLICATIONS

THE CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT APPLICATIONS FOR NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS AND WATER QUALITY MANAGEMENT (WQM) PERMITS

This notice provides information about persons who have applied for a new, amended or renewed NPDES or WQM permit, a permit waiver for certain stormwater discharges or submitted a Notice of Intent (NOI) for coverage under a general permit. The applications concern, but are not limited to, discharges related to industrial, animal or sewage waste, discharges to groundwater, discharges associated with municipal separate storm sewer systems (MS4), stormwater

associated with construction activities or concentrated animal feeding operations (CAFOs). This notice is provided in accordance with 25 Pa. Code Chapters 91 and 92 and 40 CFR Part 122, implementing The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Federal Clean Water Act.

<i>Location</i>	<i>Permit Authority</i>	<i>Application Type or Category</i>
Section I	NPDES	Renewals
Section II	NPDES	New or amendment
Section III	WQM	Industrial, sewage or animal waste; discharge into groundwater
Section IV	NPDES	MS4 individual permit
Section V	NPDES	MS4 permit waiver
Section VI	NPDES	Individual permit stormwater construction
Section VII	NPDES	NOI for coverage under NPDES general permits

For NPDES renewal applications in Section I, the Department of Environmental Protection (Department) has made a tentative determination to reissue these permits for 5 years subject to effluent limitations and monitoring and reporting requirements in their current permits, with appropriate and necessary updated requirements to reflect new and changed regulations and other requirements.

For applications for new NPDES permits and renewal applications with major changes in Section II, as well as applications for MS4 individual permits and individual stormwater construction permits in Sections IV and VI, the Department, based upon preliminary reviews, has made a tentative determination of proposed effluent limitations and other terms and conditions for the permit applications. These determinations are published as proposed actions for comments prior to taking final actions.

Unless indicated otherwise, the EPA Region III Administrator has waived the right to review or object to proposed NPDES permit actions under the waiver provision in 40 CFR 123.24(d).

Persons wishing to comment on an NPDES application are invited to submit a statement to the regional office noted before an application within 30 days from the date of this public notice. Persons wishing to comment on a WQM permit application are invited to submit a statement to the regional office noted before the application within 15 days from the date of this public notice. Comments received within the respective comment periods will be considered in the final determinations regarding the applications. Comments should include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based.

The Department will also accept requests for a public hearing on applications. A public hearing may be held if the responsible office considers the public response significant. If a hearing is scheduled, a notice of the hearing will be published in the *Pennsylvania Bulletin* and a newspaper of general circulation within the relevant geographical area. The Department will postpone its final determination until after a public hearing is held.

Persons with a disability who require an auxiliary aid, service, including TDD users, or other accommodations to seek additional information should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

I. NPDES Renewal Applications

Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0063860	Lehighon Water Authority Box 29 Municipal Building Lehighon, PA 18235	Carbon Franklin Township	Long Run	Y

Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0047201	Tionesta Borough Municipal Authority STP P. O. Box 408 Tionesta, PA 16353-0408	Tionesta Borough Forest County	Allegheny River 16-F	Y
PA0309783	Jerry Novosel SFTF 41 Gearhart Road Pulaski, PA 16143	Shenango Township Mercer County	UNT to Buchanan Run 20-A	Y
PA0046337	McKean Township Colonial Village Subdivision STP 9231 Edinboro Road McKean, PA 16426-0062	McKean Township Erie County	Thomas Run 15-WC	Y

II. Applications for New or Expanded Facility Permits, Renewal of Major Permits and EPA Nonwaived Permit Applications

Southeast Region: Water Management Program Manager, 2 East Main Street, Norristown, PA 19401.

PA029912, Sewage, **Department of Public Welfare**, 1822 West Strasburg Road, Coatesville, PA 19320. This existing facility is located in Newlin Township, **Chester County**.

Description of Activity: This application is for a renewal NPDES permit for a discharge of treated sewage from the Embreeville Complex sewage treatment plant.

The receiving stream, West Branch Brandywine Creek is in the State Water Plan watershed 3H and is classified for WWF, MF, aquatic life, water supply, recreation and fishing. West Branch Brandywine Creek is a tributary to Brandywine Creek. There are no public water supply intakes identified downstream in this Commonwealth. The confluence with Brandywine Creek is approximately 6.0 river miles downstream from the discharge point. The State Line is approximately 9.5 river miles downstream from the confluence. A Wilmington, Delaware water supply intake is located on Brandywine Creek approximately 7.5 river miles downstream from the State Line.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.1 mgd.

Parameters	Mass (lb/day)		Concentration (mg/l)		
	Monthly Average	Weekly Average	Monthly Average	Weekly Average	Instantaneous Maximum (mg/l)
CBOD ₅	21	33	25	40	50
Total Suspended Solids	25	37	30	45	60
Ammonia as N	17		20		40
Phosphorus as P	1.7		2.0		4.0
Total Residual Chlorine			0.5		1.2
Fecal Coliform			200/100 ml		1,000/100 ml
Total Nitrogen	Monitor and Report		Monitor and Report		
Dissolved Oxygen			minimum of 3.0 mg/l at all times		
pH			within limits of 6.0 to 9.0 Standard Units at all times		

In addition to the effluent limits, the permit contains the following major special conditions:

1. Notification of Designation of Operator.
2. Abandon STP When Municipal Sewers Available.
3. Remedial Measures if Unsatisfactory Effluent.
4. No Stormwater.
5. Acquire Necessary Property Rights.
6. Change of Ownership.
7. Total Residual Chlorine Requirement.
8. Sludge Disposal Requirements.
9. Imax Requirements.
10. Average Weekly Reporting.
11. 2/Month Monitoring Requirements.

PA0012424, Industrial Waste, SIC 5171, **121 Point Breeze Terminal, LLC**, 4350 Haddonfield Road, Suite 200, Pennsauken, NJ 08109. This proposed facility is located in the City of Philadelphia, **Philadelphia County**.

Description of Proposed Activity: Renewal of an NPDES permit to discharge treated stormwater from petroleum marketing terminal.

The receiving stream, Schuylkill River is in the State Water Plan Watershed 3F and is classified for WWF.

The proposed effluent limits for Outfall MP 101 are:

Parameters	Average Monthly (mg/l)	Maximum Daily (mg/l)	Instantaneous Maximum (mg/l)
Oil and Grease	15		30
pH	within limits of 6.0 to 9.0 standard units at all times		
Gas Range Organics	Monitor and Report		Monitor and Report
Diesel Range Organics	Monitor and Report		Monitor and Report

The proposed limits for Stormwater Discharge from Outfall 001 are:

Parameters	Average Monthly (mg/l)	Maximum Daily (mg/l)	Instantaneous Maximum (mg/l)
CBOD ₅		Monitor and Report	
COD		Monitor and Report	
Oil and Grease		Monitor and Report	
pH		Monitor and Report	
Total Suspended Solids		Monitor and Report	
Total Kjeldahl Nitrogen		Monitor and Report	

<i>Parameters</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Total Phosphorus		Monitor and Report	
Iron (Dissolved)		Monitor and Report	

In addition to the effluent limits, the permit contains the following major special conditions: the EPA waiver is in effect.

PA0029980, Sewage, SIC 4952, **Sleighton School**, 485 Valley Road, Glen Mills, PA 19342. This proposed discharge is located in Middletown Township, **Delaware County**.

Description of Proposed Activity: Renewal of an NPDES permit to discharge treated sewage from Sleighton School STP.

The receiving stream, Rocky Run is in the State Water Plan watershed 3G and is classified for HQ-CWF, aquatic life, water supply and recreation. The nearest downstream public water supply intake for Aqua PA main system is located on Chester Creek and is 5.2 miles below the point of discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.045 mgd.

<i>Parameters</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>	
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	9.4		25	50
TSS	11.3		30	60
NH ₃ as N	1.3		3.5	7.0
NH ₃ as N	3.9		10.5	21.0
Fecal Coliform			#200/100 ml	#1,000/100 ml
TRC			0.35	0.83
Phosphorus, Total			Monitor and Report	Monitor and Report
Dissolved Oxygen				5.0 (Inst. Min.)
pH			6.0 to 9.0 standard units at all times	

In addition to the effluent limits, the permit contains the following major special conditions:

1. Operator Notification.
2. Abandon STP When Municipal Sewers Available.
3. Remedial Measures if Unsatisfactory Effluent.
4. No Stormwater.
5. Acquire Necessary Property Rights.
6. Change in Ownership.
7. Chlorine Minimization.
8. Proper Sludge Disposal.
9. I-max Limits.
10. 2/Month Sampling.
11. Laboratory Certification.
12. Plant Upgrade.

Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

PAS222202-A1, Industrial Stormwater, **Bestway Enterprises, Inc.**, 3870 SR 191/390, Cresco, PA 18326. This proposed facility is located in Barrett Township, **Monroe County**.

Description of Proposed Activity: The receiving stream, Cranberry Creek, is in the State Water Plan watershed 1E and is classified for HQ-CWF. The nearest downstream public water supply intake for City of Easton is located on the Delaware River, over 50 miles below the point of discharge.

The proposed effluent limits for Outfalls 501—503 are for stormwater flows.

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>	
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>
CBOD ₅				Report
Chemical Oxygen Demand				Report
Oil and Grease				Report
pH				Report
Nitrate Plus Nitrite Nitrogen				Report
Total Suspended Solids				Report
Iron (Total)				Report
Pentachlorophenol				Report
Arsenic (Total)				Report
Chromium (Total)				Report
Copper (Total)				Report

Southwest Regional Office: Regional Manager, Water Management, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, (412) 442-4000.

PA0218707, Sewage, **Kathryn A. Neumont**, 3882 Anderson Road, Gibsonia, PA 15044. This application is for renewal of an NPDES permit to discharge treated sewage from Neumont Single Residence STP in Richland Township, **Allegheny County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as UNT to Willow Run, which are classified as a TSF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the West View Borough Municipal Authority.

Outfall 001: existing discharge, design flow of 0.0004 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD ₅	10			20
Suspended Solids	10			20
Ammonia Nitrogen				
(5-1 to 10-31)	3.0			6.0
(11-1 to 4-30)	9.0			18.0
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	2,000/100 ml as a geometric mean			
Total Residual Chlorine	Monitor and Report			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

PA0253260, Sewage, **Henry Berdine**, 559 Zediker Station Road, Washington, PA 15301. This application is for issuance of an NPDES permit to discharge treated sewage from Berdine Property Small Flow Sewage Treatment Facility in South Strabane Township, **Washington County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as UNT of Little Chartiers Creek, which are classified as a HQ-WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Westview Municipal Authority located on the Ohio River.

Outfall 001: New discharge, design flow of 0.0008 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD ₅				
(5-1 to 10-31)	10			20
(11-1 to 4-30)	20			40
Suspended Solids	20			40
Ammonia Nitrogen				
(5-1 to 10-31)	5.0			10.0
(11-1 to 4-30)	15.0			30.0
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	2,000/100 ml as a geometric mean			
Total Residual Chlorine	Monitor and Report			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

III. WQM Industrial Waste and Sewerage Applications Under The Clean Streams Law (35 P. S. §§ 691.1—691.1001)

Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

WQM Permit No. 4006404, Sewerage, **Foster Township**, 1000 Wyoming Avenue, P. O. Box 465, Freeland, PA 18224. This proposed facility is located in Foster Township, **Luzerne County**, PA.

Description of Proposed Action/Activity: This project involves the construction of a new gravity wastewater collection system, pump stations and force mains to serve 442 EDUs located in Woodside, Youngstown, Highland and Upper Lehigh areas of Foster Township, Luzerne County, PA.

Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

WQM Permit No. 2685202-A2, Industrial Waste, **Allegheny Power**, 800 Cabin Hill Drive, Greensburg, PA 15601. This proposed facility is located in the City of Connellsville, **Fayette County**.

Description of Proposed Action/Activity: Application for the modification to the wastewater treatment system.

WQM Permit No. 6506201, Industrial Waste, **Allegheny Ludlum Corporation**, 100 River Road, Brackenridge, PA 15014-1597. This proposed facility is located in Allegheny Township, **Westmoreland County**.

Description of Proposed Action/Activity: Application for the construction and operation of a wastewater treatment system.

Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

WQM Permit No. 2506405, Sewerage, **Rory Hamilton**, 2147 Hare Road, Waterford PA 16441. This proposed facility is located in Waterford Township, **Erie County**.

Description of Proposed Action/Activity: A Single Residence Sewage Treatment Plant.

IV. NPDES Applications for Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)

V. Applications for NPDES Waiver Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)

VI. NPDES Individual Permit Applications for Discharges of Stormwater Associated with Construction Activities

Southeast Region: Water Management Program Manager, 2 East Main Street, Norristown, PA 19401.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI010906010	Turnpike Commission Quakertown Maintenance Facility P. O. Box 67676 Harrisburg, PA 17106-7676	Bucks	Milford Township	Unami Creek (HQ-TSF)
PAS10G259-R	Tattersall Development Company 1522 Tattersall Way West Chester, PA 19380	Chester	West Bradford Township	Broad Run (EV)
PAI011506027	Bentley By Design, LP The Chance Property 1595 Paoli Pike, Suite 202 West Chester, PA 19380	Chester	Willistown Township	UNT West Branch Crum Creek (EV)

Northeast Region: Watershed Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

Lehigh County Conservation District: Lehigh Ag. Center, Suite 102, 4184 Dorney Park Road, Allentown, PA 18104, (610) 391-9583.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI023906006	Judy Rau Iron Run Beverage 7525 Tilghman St. Allentown, PA 18106	Lehigh	Lower Macungie Township	Little Lehigh Creek HQ-CWF
PAI023903021(1)	Christopher Williams Liberty Property Trust 1510 Valley Center Pkwy. Suite 240 Bethlehem, PA 18017	Lehigh	Upper Macungie Township	Iron Run Creek HQ-CWF
PAS10Q237-1	Christopher Williams Liberty Property Trust 1510 Valley Center Pkwy. Suite 240 Bethlehem, PA 18017	Lehigh	Upper Macungie Township	Iron Run Creek HQ-CWF

Carbon County Conservation District: 5664 Interchange Road, Lehighton, PA 18235-5114, (610) 377-4894.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI021306002	Alfred Natale 19 Whispering Hills Ct. Effort, PA 18330	Carbon	Penn Forest Township	Mud Run and Lehigh River HQ-CWF

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAS101302R-1	Jack Kalins 1 Lake Drive Lake Harmony, PA 18624	Carbon	Kidder Township	Tobyhanna Creek HQ-CWF

Northampton County Conservation District: Greystone Bldg., Gracedale Complex, Nazareth, PA 18064-9211, (610) 746-1971.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI024806008	Charles Chrin 400 South Greenwood Ave. Easton, PA 18045	Northampton	Bethlehem Township	Bushkill Creek HQ-CWF

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI203506002	Ralph Lesh, III 15 Creekview Drive Newport, PA 17074	Perry	Oliver Township	Buffalo Creek HQ-CWF
PAI032806002	Loretta Deshong P. O. Box 343 South Mountain, PA 17261	Franklin	Quincy Township	UNT Rocky Mountain Creek, tributary to Conococheague Creek, and UNT to Racoon Creek HQ-CWF
PAI030605007	Stephen Cushman Robert Sharp 503 West Lincoln Highway Exton, PA 19341	Berks	Ruscombmanor Township	Furnace Creek, Willow Creek HQ-CWF, CWF
PAI030605006	Estes Express Lines 12 Halls Road Kutztown, PA 19530	Berks	Richmond Township	Moselem Creek HQ-CWF

Southwest Region: Watershed Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Armstrong County Conservation District: Armsdale Administration Building, Suite B-2, 124 Armsdale Road, Kittanning, PA 16201, (724) 548-3425.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI050306001	Department of Transportation 2550 Oakland Avenue P. O. Box 429 Indiana, PA 15701-0429	Armstrong	Hovey Township Armstrong County Foxburg Borough Clarion County	Allegheny River (WWF)

VII. List of NOIs for NPDES and/or Other General Permit Types

PAG-12	Concentrated Animal Feeding Operations (CAFOs)
PAG-13	Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701.

Centre County Conservation District: 414 Holmes Avenue, Suite 4, Bellefonte, PA 16823, (814) 355-6817.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAS10F088-R	S & A Custom Built Homes Keith Sunderman 2121 Old Gatesburg Road Suite 200 State College, PA 16803 Trotter Farm Subdivision	Centre	Halfmoon Township	Halfmoon Creek HQ-CWF Secondary Spruce Creek
PAI041405001	Daniel and Linda Shreckengast 110 Windy Hill Lane Spring Mills, PA 16875 Shreckengast Subdivision	Centre	Penn Township	UNT of Elk Creek EV

Northumberland County Conservation District: R. R. 3, Box 238C, Sunbury, PA 17801 (570) 271-1140.

NPDES Permit No.	Applicant Name & Address	County	Municipality	Receiving Water/Use
PAI044906001	Family Care for Children and Youth Lot No. 6 Belford Blvd. and Housels Run Road Milton, PA 17847	Northumberland	Milton Borough	UNT West Branch Susquehanna WWF Montandon Marsh EV Wetland

**PUBLIC WATER SUPPLY (PWS)
PERMIT**

Under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17), the following parties have applied for a PWS permit to construct or substantially modify a public water system.

Persons wishing to comment on a permit application are invited to submit a statement to the office listed before the application within 30 days of this public notice. Comments received within the 30-day comment period will be considered in the formulation of the final determinations regarding the application. Comments should include the name, address and telephone number of the writer and a concise statement to inform the Department of Environmental Protection (Department) of the exact basis of a comment and the relevant facts upon which it is based. A public hearing may be held after consideration of comments received during the 30-day public comment period.

Following the comment period, the Department will make a final determination regarding the proposed permit. Notice of this final determination will be published in the *Pennsylvania Bulletin* at which time this determination may be appealed to the Environmental Hearing Board.

The permit application and any related documents are on file at the office listed before the application and are available for public review. Arrangements for inspection and copying information should be made with the office listed before the application.

Persons with a disability who require an auxiliary aid, service or other accommodations to participate during the 30-day public comment period should contact the office listed before the application. TDD users should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

SAFE DRINKING WATER

Applications Received under the Pennsylvania Safe Drinking Water Act

MINOR AMENDMENT

Northeast Region: Water Supply Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

Application, Minor Amendment.

Applicant **Lehigh County Authority
(Central Lehigh Division)**
Upper Macungie Township
Lehigh County

Responsible Official Steve Repasch
Lehigh County Authority
P. O. Box 3348
1053 Spruce Street
Allentown, PA 18106-0348
(610) 398-2503

Type of Facility Community Water System

Consulting Engineer Kirt Ervin, P. E.
US Engineering, LLC
75 Jardin Circle
Highland, IL 62249
(314) 614-9120

Application Received Date March 14, 2006

Description of Action PWS application for repainting and repair of the Breinigsville Reservoir No. 2 finished water storage tank.

Application, Minor Amendment.

Applicant **Lehigh County Authority
(Central Lehigh Division)**
Upper Macungie Township
Lehigh County

Responsible Official Steve Repasch
Lehigh County Authority
P. O. Box 3348
1053 Spruce Street
Allentown, PA 18106-0348
(610) 398-2503

Type of Facility Community Water System

Consulting Engineer Kirt Ervin, P. E.
US Engineering, LLC
75 Jardin Circle
Highland, IL 62249
(314) 614-9120

Application Received Date March 14, 2006

Description of Action PWS application for repainting and repair of the Breinigsville Reservoir No. 3 finished water storage tank.

Application, Minor Amendment.

Applicant **Lehigh County Authority
(Central Lehigh Division)**
Upper Macungie Township
Lehigh County

Responsible Official Steve Repasch
Lehigh County Authority
P. O. Box 3348
1053 Spruce Street
Allentown, PA 18106-0348
(610) 398-2503

Type of Facility Community Water System

Consulting Engineer Kirt Ervin, P. E.
US Engineering, LLC
75 Jardin Circle
Highland, IL 62249
(314) 614-9120

Application Received Date March 14, 2006

Description of Action PWS application for repainting and repair of the Fogelsville Reservoir No. 1 finished water storage tank.

Application, Minor Amendment.

Applicant **Lehigh County Authority**
North Whitehall Township
Lehigh County

Responsible Official Steve Repasch
Lehigh County Authority
P. O. Box 3348
1053 Spruce Street
Allentown, PA 18106-0348
(610) 398-2503

Type of Facility Community Water System

Consulting Engineer Kirt Ervin, P. E.
US Engineering, LLC
75 Jardin Circle
Highland, IL 62249
(314) 614-9120

Application Received Date March 14, 2006

Description of Action PWS application for repainting and repair of the Schnecksville North Reservoir finished water storage tank.

Southwest Region: Water Supply Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Application No. 1106501MA, Minor Amendment.

Applicant **Carrolltown Borough Municipal Authority**
140 East Carroll Street
Carrolltown, PA 15722

Township or Borough East Carroll Township

Responsible Official Anne Farabaugh, President
Carrolltown Borough Municipal Authority
140 East Carroll Street
Carrolltown, PA 15722

Type of Facility Water treatment plant

Consulting Engineer Keller Engineers, Inc.
P. O. Box 61
Hollidaysburg, PA 16648

Application Received Date April 3, 2006

Description of Action Addition of a chemical feed pump at the water treatment plant for the injection of AquaMag.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 1

Acknowledgment of Notices of Intent to Remediate Submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Sections 302—305 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* an acknowledgment noting receipt of Notices of Intent to Remediate. An acknowledgment of the receipt of a Notice of Intent to Remediate is used to identify a site where a person proposes to, or has been required to, respond to a release of a regulated substance at a site. Persons intending to use the Background Standard, Statewide Health Standard, the Site-Specific Standard or who intend to remediate a site as a special industrial area must file a Notice of Intent to Remediate with the Department. A Notice of Intent to Remediate filed with the Department provides a brief description of the location of the site, a list of known or suspected contaminants at the site, the proposed remediation measures for the site and a description of the intended future use of the site. A person who demonstrates attainment of one, a combination of the cleanup standards or who receives approval of a special industrial area remediation identified under the act will be relieved of further liability for the remediation of the site for any contamination identified in reports submitted to and approved by the Department. Furthermore, the person shall not be subject to citizen suits or other contribution actions brought by responsible persons not participating in the remediation.

Under sections 304(n)(1)(ii) and 305(c)(2) of the act, there is a 30-day public and municipal comment period for sites proposed for remediation using a Site-Specific Standard, in whole or in part, and for sites remediated as a special industrial area. This period begins when a summary of the Notice of Intent to Remediate is published in a newspaper of general circulation in the area of the site. For the sites identified, proposed for remediation to a Site-Specific Standard or as a special industrial area, the municipality within which the site is located may request to be involved in the development of the remediation and reuse plans for the site if the request is made within 30 days of the date specified. During this comment period, the municipality may request that the person identified as the remediator of the site develop and implement a public involvement plan. Requests to be involved and comments should be directed to the remediator of the site.

For further information concerning the content of a Notice of Intent to Remediate, contact the environmental cleanup program manager in the Department regional office before which the notice appears. If information concerning this acknowledgment is required in an alternative form, contact the community relations coordinator at the appropriate regional office. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following Notices of Intent to Remediate:

Southeast Region: Environmental Cleanup Program Manager, 2 East Main Street, Norristown, PA 19401.

Belmont Cleaners, Lower Merion Township, **Montgomery County**. Donald A. Coleman, P. G., Penn E & R, Inc., 2755 Bergery Road, Hatfield, PA 19440 on behalf of Michael Kirschner, Kirschner Brothers Co., 518 W. Lancaster Avenue, P. O. Box 525, Haverford, PA 19041 has submitted a Notice of Intent to Remediate. Soil and groundwater at the site were impacted with VOCs, chlorinated solvents and MTBE. It is anticipated that use of the property will remain as a dry cleaning drop-off facility.

Chichester School Dist. Site, Upper Chichester Township, **Delaware County**. Douglass Newton, MACTEC Env. & Consulting, Inc., 5205 Militia Hill Road, Plymouth Meeting, PA 19462 on behalf of Michael Golde, Chichester School District, P. O. Box 2100, Boothwyn, PA 19061 has submitted a Notice of Intent to Remediate. The site has been found to be contaminated with organochlorine pesticides, which have contaminated soil, groundwater, surface water and sediment on the site. The property will be the future site of an elementary school and associated playgrounds, parking areas and access roads. A summary of the Notice of Intent to remediate was reported to have been published in the *Delaware County Daily Times* on March 1, 2006.

Imperial Specialty, Pottstown Borough, **Montgomery County**. David Farrington, Walter B. Satterthwaite Assoc., Inc., 720 Old Fern Hill Road, West Chester, PA 19380 on behalf of Nellie Savage, Imperial Specialty, 1153 Sembling Ave., Pottstown, PA 19464 has submitted a Notice of Intent to Remediate. Soil and groundwater at the site were impacted with of PAH and chlorinated solvents. The intended future use of the property is industrial.

Keystone Discount Tire, Rockledge Borough, **Montgomery County**. Joanne Van Rensselaer, 2951 Advance Lane, Colmar, PA 18915 on behalf of Lee Gottsman, Lee Rob, LLC, 120 Pocasset Road, Philadelphia, PA 19115 has submitted a Notice of Intent to Remediate. Soil at the site has been impacted with No. 2 fuel oil and chlorinated solvents. The site is a commercial property that will be redeveloped for commercial purposes.

Five Points Shopping Center, West Goshen Township, **Chester County**. Phil Gray, Phoenix GeoEnvironmental, LLC, 73 Whethersfield Circle, Telford, PA 18969 on behalf of Gloria Terranova, 7 Summit Drive, Glen Mills, PA 19342 has submitted a Notice of Intent to Remediate. Soil and groundwater at the site were impacted with chlorinated solvents. Site will remain a Five Point Shopping Center.

Furniture and Bedding Fac. Outlet, City of Philadelphia, **Philadelphia County**. David Farrington, Walter B. Satterthwaite Assoc., Inc., 720 Old Fern Hill Road, West Chester, PA 19380 on behalf of Avi Nechemiah, Golden Gate Electronics, 1417 Callowhill St., Philadelphia, PA 19123 has submitted a Notice of Intent to Remediate. Groundwater at the site has been impacted with leaded gasoline, MTBE and lead. The intended future use of the site is nonresidential/commercial.

Buxmont Acad., Ridley Township, **Delaware County**. Grover H. Emrich, Ph.D., P. G. on behalf of Judy B. Happ, Buxmont Acad., P. O. Box 283, Pipersville, PA 18947 has submitted a Notice of Intent to Remediate. Soil and groundwater at the site were impacted with unleaded

gasoline. The future use of the site is an educational institution. A summary of the Notice of Intent to remediate was reported to have been published in the *Delaware County The News* on March 27, 2006.

Wm. H. Ziegler School, City of Philadelphia, **Philadelphia County**. Gloria Hunsberger, Powell-Harpstead, Inc., 800 E. Washington St., West Chester, PA 19380 on behalf of Francine Locke, School Dist. of Philadelphia, 440 N. Broad St., 3rd Floor, Room 3052, Philadelphia, PA 19103 has submitted a Notice of Intent to Remediate. Soil at the site has been impacted with arsenic, lead and inorganics. The future use of the site is to be a 25,000 sq. ft. building addition and construct a new courtyard. A summary of the Notice of Intent to remediate was reported to have been published in the *Philadelphia Weekly* on January 18, 2006.

Cognis Corp. Ambler Ballfield Area, Lower Gwynedd Township, **Montgomery County**. Jay Ash, AMO Env. Decisions, 4327 Point Pleasant Pike, P. O. Box 410, Danboro, PA 18916 has submitted a Notice of Intent to Remediate. Soil at the site was impacted with pesticides, PCBs, herbicides and dioxin. The intended future use of the property is residential. A summary of the Notice of Intent to Remediate was reported to have been published in the *Ambler Gazette* on March 29, 2006.

Marcus Hook Refinery/No. 3 Tank Farm No. 220 Area, Bethel Township, **Delaware County**. Heidi Gahnz, Resource Control Corp., 1274 N. Church St., Moorestown, NJ 08057 on behalf of Brad Fish, Sunoco Project Manager, Sunoco, Inc. (R & M), Blueball and Post Roads, Marcus Hook, PA 19061 has submitted a Notice of Intent to Remediate. Groundwater at the site has been impacted with unleaded gasoline and BTEX. The current and proposed future use of the property is residential. A summary of the Notice of Intent to Remediate was reported to have been published in the *Delaware County Times Newspaper* on March 21, 2006.

Northeast Regional Field Office: Regional Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.

Murray Motors West, Upper Macungie Township, **Lehigh County**. Jody Schmill, Project Manager, Axiom Environmental Services, LLC, P. O. Box 20522, Lehigh Valley, PA 18002, has submitted a Notice of Intent to Remediate (on behalf of John Noble, Murray Motors West, 1118 Route 100 South, Trexlertown, PA 18087) concerning the remediation of leaded gasoline constituents found or suspected to be present in site soils as the result of historic operations. The report was submitted to demonstrate attainment of the Statewide Health Standard. A Final Report was simultaneously submitted. A summary of the Notice of Intent to Remediate is expected to be published in a local newspaper serving the general area in the near future. The intended future use for the site will be continuation as a commercial facility.

Former Ashley Rail Yards—Borough of Ashley, **Luzerne County**. H. Allen Bellas, Executive Director, Redevelopment Authority of Luzerne County, Suite 210, 16 Luzerne Avenue, West Pittston, PA 18643 has submitted a revised Notice of Intent to Remediate concerning the characterization of soils and groundwater found or suspected to have been impacted by contamination associated with the historic rail yard operations and maintenance facilities. Potential contaminants may include petroleum constituents, volatile and semivolatile compounds, metals and PCBs. The proposed future use of the property will remain as light industrial. A summary

of the Notice of Intent to Remediate (NIR) is expected to be published in a local newspaper serving the general area in the near future. The property has been identified as a Keystone Opportunity Zone, and the applicant proposes to remediate the site to meet the Special Industrial Area standard. The revised NIR increases the acreage from the originally proposed 14 acres to the full 80 acres of property.

Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Carlton Snack Foods, Heidelberg Township, **York County**. GemChem, Inc. 53 North Cedar Street, P. O. Box 383, Lititz, 17543 on behalf of Jeffrey Carl, 725 Oakwood Drive, Red Lion, PA 17356, submitted a Notice of Intent to Remediate gasoline contaminated groundwater. The property is currently used for a commercial warehouse and a residential unit and will continue to be used as such in the future. The applicant intends to document remediation to the Site-Specific Standard.

Sheetz 38, City of Altoona, **Blair County**. Groundwater & Environmental Services, Inc. 6 Sheraton Drive, Suite 2, Altoona PA 16601, on behalf of Sheetz, Inc., 5700 6th Avenue, Altoona, PA, 36334, submitted a Notice of Intent to Remediate site soils and groundwater contaminated with compounds associated with unleaded gasoline. The applicant intends to document remediation to the residential Statewide Health Standard.

Southwest Region: Environmental Cleanup Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Technical Coatings Company—Block 362-G, Lot 364, Borough of Oakmont, **Allegheny County**. Andrew Bonas, ENVIORN International Corporation, 214 Carnegie Center, Princeton, NJ 08540 on behalf of Rayna Laiosa, Benjamin Moore & Co., 51 Chestnut Ridge Road, Montvale, NJ 07645 has submitted a Notice of Intent to Remediate soil contaminated with lead above the residential direct contact MSCs along with the residential and nonresidential soil to groundwater Statewide Health Standards. Remnant 55-gallon drums and paint cans were found discarded within the site. Soil and debris removal in concert with follow up sampling will show that the site will meet nonresidential Statewide Health Standards. Subsurface groundwater sampling events showed one exceedance of the Department of Environmental Protection used aquifer groundwater residential and non-residential Statewide Health Standards. Groundwater is not used for any purpose. The sites intended purpose is to remain nonresidential.

AIR QUALITY

PLAN APPROVAL AND OPERATING PERMIT APPLICATIONS

NEW SOURCES AND MODIFICATIONS

The Department of Environmental Protection (Department) has developed an "integrated" plan approval, State operating permit and Title V operating permit program. This integrated approach is designed to make the permitting process more efficient for the Department, the regulated community and the public. This approach allows the owner or operator of a facility to complete and submit all the permitting documents relevant to its application one time, affords an opportunity for public input and provides for sequential issuance of the necessary permits.

The Department has received applications for plan approvals and/or operating permits from the following facilities.

Copies of the applications, subsequently prepared draft permits, review summaries and other support materials are available for review in the regional office identified in this notice. Persons interested in reviewing the application files should contact the appropriate regional office to schedule an appointment.

Persons wishing to receive a copy of a proposed plan approval or operating permit must indicate their interest to the Department regional office within 30 days of the date of this notice and must file protests or comments on a proposed plan approval or operating permit within 30 days of the Department providing a copy of the proposed document to that person or within 30 days of its publication in the *Pennsylvania Bulletin*, whichever comes first. Interested persons may also request that a hearing be held concerning the proposed plan approval and operating permit. Comments or protests filed with the Department regional offices must include a concise statement of the objections to the issuance of the Plan approval or operating permit and relevant facts which serve as the basis for the objections. If the Department schedules a hearing, a notice will be published in the *Pennsylvania Bulletin* at least 30 days prior the date of the hearing.

Persons with a disability who wish to comment and require an auxiliary aid, service or other accommodation to participate should contact the regional office identified before the application. TDD users should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

Final plan approvals and operating permits will contain terms and conditions to ensure that the source is constructed and operating in compliance with applicable requirements in 25 Pa. Code Chapters 121—143, the Federal Clean Air Act (act) and regulations adopted under the act.

PLAN APPROVALS

Plan Approval Applications Received under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter B that may have special public interest. These applications are in review and no decision on disposition has been reached.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790, Mark Wejkszner, New Source Review Chief, (570) 826-2531.

48-313-098: Elementis Pigments, Inc. (1525 Wood Avenue, Easton, PA 18042) for construction of an iron oxide repackaging process and associated air cleaning device in Easton, **Northampton County**.

45-302-076: Sanofi Pasteur, Inc. (Discovery Drive, Swiftwater, PA 18370) for construction of two natural gas/No. 2 oil fired boilers at the facility at the intersection of Routes 314 and 611, Pocono Township, **Monroe County**.

45-329-001: Sanofi Pasteur, Inc. (Discovery Drive, Swiftwater, PA 18370) for construction of three emergency generators at the facility at the intersection of Routes 314 and 611, Pocono Township, **Monroe County**.

45-399-016: Sanofi Pasteur, Inc. (Discovery Drive, Swiftwater, PA 18370) for construction of a vaccine manufacturing process at the facility at the intersection of Routes 314 and 611, Pocono Township, **Monroe County**.

54-322-006: Pine Grove Landfill, Inc. (193 Schultz Road, Pine Grove, PA 17963) for construction of Pad 12 at their facility in Pine Grove Township, **Schuylkill County**.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, Ronald Davis, New Source Review Chief, (717) 705-4702.

36-05026C: R. R. Donnelley & Sons Co. (1375 Harrisburg Pike, Lancaster, PA 17601) to install a new heatset web to be controlled by the existing regenerative thermal oxidizers at the Lancaster West facility in City of Lancaster, **Lancaster County**.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701, David Aldenderfer, Program Manager, (570) 327-3637.

59-304-008G: ACP Manufacturing Co., LLC (P. O. Box 68, Blossburg, PA 16912) for modification of a coating dip tank to increase the allowable VOC emissions from .9 ton in any 12-consecutive month period to 3.7 tons in any 12-consecutive month period in Lawrence Township, **Tioga County**.

19-00023A: Impress USA, Inc. (6670 Low Street, Bloomsburg, PA 17815) for modification of a can side stripe coating operation (Fael Line No. 1) by removing the catalytic fume incinerator required under the best available technology requirement of 25 Pa. Code §§ 127.1 and 127.12 and consequently increasing the amount of VOCs and volatile HAPs being emitted from the operation, to modify a second can side stripe coating operation (Soudronic Line No. 2) by increasing the amount of VOCs it is allowed to emit from 2.5 tons in any 12-consecutive month period to 7.57 tons in any 12-consecutive month period as well as increasing the amount of volatile HAPs being emitted from the operation and to construct 10 videojet ink marking systems in South Centre Township, **Columbia County**.

Intent to Issue Plan Approvals and Intent to Issue or Amend Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter B. These actions may include the administrative amendments of an associated operating permit.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401, Thomas McGinley, New Source Review Chief, (484) 250-5920.

46-0222A: Bostik, Inc. (1740 County Line Road, Huntingdon Valley, PA 19006) for an additional mixer, to be exhausted to an existing dust collector, for the replacement of two mixers, and for an increase in VOCs and HAPs, due to solvent usage for cleaning operations. The facility is in Upper Moreland Township, **Montgomery County**. This facility is a non-Title V facility. The pollutants of concern from the adhesive and sealant manufacturing process are VOCs, PM and HAPs. There are no controls for VOCs and HAPs. However, a dust collector will control emissions of PM from the seven mixers.

The seven mixers will have a potential-to-emit (PTE) of 5.23 tons of VOCs per 12-month rolling sum and a PTE of 3.38 tons of HAPs per 12-month rolling sum. Emissions of PM will be less than 1 ton per 12-month rolling sum.

Cleaning Operations will have a PTE of 19.6 tons of VOCs per 12-month rolling sum and a PTE of 2.75 tons of HAPs per 12-month rolling sum.

The proposed Plan Approval will contain recordkeeping and operating restrictions designed to keep the facility operating within the allowable emissions and all applicable air quality requirements.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790, Mark Wejkszner, New Source Review Chief, (570) 826-2531.

39-399-056: Service Tire Truck Center, Inc. (2255 Avenue A, Bethlehem, PA 18017) for construction and operation of a truck tire retreading process and associated air cleaning device (fabric collector) in the City of Bethlehem, **Lehigh County**. The facility is a non-Title V facility. The operation of the tire retreading process will result in 6.6 tons per year of particulate emissions based on the best available technology standard of 0.02 grain/dscf and 22.7 tons per year of VOCs. The plan approval will include emission restrictions, monitoring, reporting and work practice requirements designed to keep the sources operating within all applicable air quality requirements.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, Ronald Davis, New Source Review Chief, (717) 705-4702.

05-05005A: Bedford Materials Co., Inc. (7676 Allegheny Road, Manns Choice, PA 15550) for replacement of the thermal incinerator with a regenerative thermal oxidizer in Napier Township, **Bedford County**. Emissions from the coating operation will remain essentially the same. The plan approval and subsequent Title V operating permit amendment will include emission restrictions, work practice standards, and testing, monitoring, recordkeeping and reporting requirements to ensure the facility complies with the applicable air quality regulations. This project is subject to 40 CFR Part 63, Subpart JJJJ—National Emission Standards for Hazardous Air Pollutants: Paper and Other Web Coating.

22-05044A: Pennsy Supply, Inc. (P. O. Box 3331, Harrisburg, PA 17104-3331) for addition of one crusher, conveyor belt and fabric collector to the circuit at the Hummelstown crushing operation, South Hanover Township, **Dauphin County**. Estimated atmospheric emissions for PM10 associated with this project are projected to be approximately 0.205 ton per year. The facility is a non-Title V (State-only) facility. The facility is subject to 40 CFR Part 60, Standards of Performance for New Stationary Sources. The plan approval will include conditions designed to keep the project in compliance with all applicable air quality requirements. The plan approval will be incorporated into the State-only operating permit in accordance with 25 Pa. Code § 127.450 (Administrative Amendment).

38-05027A: Reading Materials Inc., Lebanon Materials Asphalt Plant (P. O. Box 1467, Skippack, PA 19474-1467) for conversion of the existing rotary dryer burner to be capable of burning No. 2 fuel oil, E4 fuel oil and On-Specification Waste Derived Liquid Fuel in addition to natural gas. The facility will also be authorized to use Recycled Asphalt Pavement at the facility. The plant will continue to be controlled by a cyclone and a fabric filter baghouse in North Annville Township, **Lebanon County**. The actual emissions from this facility will be about 80.0 tpy of CO, 24.0 tpy of NO_x, 17.6 tpy of SO_x, 8.4 tpy of PM and 1.6 tpy of VOC. This plan approval will include monitoring, recordkeeping and reporting requirements designed to keep the sources operating within all applicable air quality requirements.

67-05030C: C-P Converters, Inc. (15 Grumbacher Road, York, PA 17402) for installation of Flexographic Press controlled by permanent total enclosure and catalytic oxidizer at Manchester Township, **York County**. The primary emissions from this source are VOC. This press will replace an existing press with no change to the facility VOC emissions limit. This Plan Approval will be incorporated into the facility's Title V operating permit number 67-05030 in accordance with 25 Pa. Code § 127.450 (Administrative Amendment). The Title V operating permit number 67-05030 will contain the emissions, monitoring, recordkeeping, reporting and work practice standards designed to keep the facility operating within the applicable air quality requirements.

67-05049A: Trenwyth Industries (One Connelly Road, Emigsville, PA 17318) for installation of a concrete block coating system and to vent several existing fabric filters to atmosphere in Manchester Township, **York County**. Plant emissions will not increase significantly from these installations. The plan approval and subsequent State-only operating permit will include emission restrictions, work practice standards, and testing, monitoring, recordkeeping and reporting requirements to ensure the facility complies with the applicable air quality regulations.

Intent to Issue Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, Ronald Davis, New Source Review Chief, (717) 705-4702.

06-03024: Wolfe Dye & Bleach Works (3600 Parkview Road, Reading, PA 19606) for operation of their St. Lawrence fabric drying facility in the St. Lawrence Borough, **Berks County**. The State-only operating permit will include monitoring, recordkeeping, reporting requirements, emission restrictions and work practice standards designed to keep the facility operating within all applicable air quality requirements.

22-05045: The Harrisburg Authority (One Keystone Plaza, Suite 104, Harrisburg, PA 17101) for operation of their wastewater treatment facility in Swatara Township, **Dauphin County**. The facility has the following potential annual emissions: 98 tons NO_x; 51 tons CO; 21 tons SO_x; 7 tons VOC and 2 tons PM₁₀. The State-only operating permit will include emission restrictions, work practice standards and testing, monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements. This is a renewal of the State-only operating permit.

28-03029: Cumberland Valley Animal Shelter (2325 Country Road, Chambersburg, PA 17201) for operation of their animal crematory in Guilford Township, **Franklin County**. The facility has the following annual potential air emissions: 2 tons NO_x and 1 ton PM₁₀. The State-only operating permit will include emission restrictions, work practice standards and testing, monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements. This is a renewal of the State-only operating permit.

28-05013: Cinetic Landis Grinding Corp. (20 East Sixth Street, Waynesboro, PA 17268) for operation of their machine tool manufacturing facility in Waynesboro Borough, **Franklin County**. The facility has the following potential annual emissions: 18 tons NO_x; 15 tons CO; 13

tons VOC; and 3 tons toluene. The State-only operating permit will include emission restrictions, work practice standards and testing, monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements. This is a renewal of the State-only operating permit.

36-03066: Perdue Farms, Inc. (1609 River Road, Marietta, PA 17547) for operation of a grain handling and storage facility in East Donegal Township, **Lancaster County**. The facility has the potential to emit less than 100 tons of PM₁₀ per year. Actual emissions of PM₁₀ are less than 10 tons per year. The facility wide operating permit shall include emission restrictions, monitoring, recordkeeping requirements designed to ensure the facility complies with applicable air quality regulations.

Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104, Edward Braun, Chief, (215) 685-9476.

N05-011: The Curtis Center (Independence Square West, Suite L90, Philadelphia, PA 19106) for operation of a commercial office in the City of Philadelphia, **Philadelphia County**. The facility's air emission sources include two boilers less than 15.0 mmBtu/hr each, a 600 kW emergency generator and a 245 BHP emergency fire pump.

The operating permit will be issued under 25 Pa. Code, Philadelphia Code Title 3 and Air Management Regulation XIII. Permit copies and other supporting information are available for public inspection at AMS, 321 University Avenue, Philadelphia, PA 19104. For further information, contact Edward Wiener at (215) 685-9426.

Persons wishing to file protest or comments on the operating permit must submit the protest or comments within 30 days from the date of this notice. Protests or comments filed with AMS must include a concise statement of the objections to the permit issuance and the relevant facts upon which the objections are based. Based upon the information received during the public comment period, AMS may modify the operating permit or schedule a public hearing. The hearing notice will be published in the *Pennsylvania Bulletin* and a local newspaper at least 30 days before the hearing.

S06-002: Federal Reserve Bank of Philadelphia. (100 North 6th Street, Philadelphia, PA 19106) for operation of a banking facility in the City of Philadelphia, **Philadelphia County**. The facility's air emission source includes five 6.0 mmBtu/hr boilers and nine emergency generators.

The operating permit will be issued under 25 Pa. Code, Philadelphia Code Title 3 and Air Management Regulation XIII. Permit copies and other supporting information are available for public inspection at AMS, 321 University Avenue, Philadelphia, PA 19104. For further information, contact Edward Wiener at (215) 685-9426.

Persons wishing to file protest or comments on the above operating permit must submit the protest or comments within 30 days from the date of this notice. Protests or comments filed with AMS must include a concise statement of the objections to the permit issuance and the relevant facts upon which the objections are based. Based upon the information received during the public comment period, AMS may modify the operating permit or schedule a public hearing. The hearing notice will be published in the *Pennsylvania Bulletin* and a local newspaper at least 30 days before the hearing.

COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); and The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). Mining activity permits issued in response to applications will also address the applicable permitting requirements of the following statutes: the Air Pollution Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

The following permit applications to conduct mining activities have been received by the Department of Environmental Protection (Department). A copy of an application is available for inspection at the district mining office indicated before an application. Where a 401 Water Quality Certification is needed for any aspect of a particular proposed mining activity, the submittal of the permit application will serve as the request for certification.

Written comments, objections or requests for informal conferences on applications may be submitted by any person or any officer or head of any Federal, State or local government agency or authority to the Department at the district mining office indicated before an application within 30 days of this publication, or within 30 days after the last publication of the applicant's newspaper advertisement, as provided by 25 Pa. Code §§ 77.121—77.123 and 86.31—86.34.

Where any of the mining activities listed will have discharges of wastewater to streams, the Department will incorporate NPDES permits into the mining activity permits issued in response to these applications. NPDES permits will contain, at a minimum, technology-based effluent limitations as identified in this notice for the respective coal and noncoal applications. In addition, more restrictive effluent limitations, restrictions on discharge volume or restrictions on the extent of mining which may occur will be incorporated into a mining activity permit, when necessary, for compliance with water quality standards (in accordance with 25 Pa. Code Chapters 93 and 95). Persons or agencies who have requested review of NPDES permit requirements for a particular mining activity within the previously mentioned public comment period will be provided with a 30-day period to review and submit comments on the requirements.

Written comments or objections should contain the name, address and telephone number of the person submitting comments or objections; the application number; and a statement of sufficient detail to inform the Department on the basis of comment or objection and relevant facts upon which it is based. Requests for an informal conference must contain the name, address and telephone number of requestor; the application number; a brief summary of the issues to be raised by the requestor at the conference; and a statement whether the requestor wishes to have the conference conducted in the locality of the proposed mining activities.

Coal Applications Received

Effluent Limits—The following coal mining applications that include an NPDES permit application will be subject to, at a minimum, the following technology-based effluent limitations for discharges of wastewater to streams:

<i>Parameter</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Iron (total)	3.0 mg/l	6.0 mg/l	7.0 mg/l
Manganese (total)	2.0 mg/l	4.0 mg/l	5.0 mg/l
Suspended solids	35 mg/l	70 mg/l	90 mg/l
pH*		greater than 6.0; less than 9.0	
Alkalinity greater than acidity*			

* The parameter is applicable at all times.

A settleable solids instantaneous maximum limit of 0.5 ml/l applied to: (1) surface runoff (resulting from a precipitation event of less than or equal to a 10-year 24-hour event) from active mining areas; active areas disturbed by coal refuse disposal activities; and mined areas backfilled and revegetated; and (2) drainage (resulting from a precipitation event of less than or equal to a 1-year 24-hour event) from coal refuse disposal piles.

California District Office: 25 Technology Drive, Coal Center, PA 15423, (724) 769-1100.

56900701 and NPDES Permit No. PA021078, PBS Coals, Inc. (P. O. Box 260, Friedens, PA 15541), to renew the permit and related NPDES permit and to revise the permit for the Job 12 Expansion in Shade Township, **Somerset County** to add acreage and NPDES discharge point to expand and maintain existing site utilizing fly ash. Surface acres proposed 111.7. Receiving stream: UNT

to Coal Run, classified for the following use: CWF. Application received February 3, 2006.

63851702. NPDES Permit No. PA0215431, Consolidation Coal Company (1800 Washington Road, Pittsburgh, PA 15241), to renew the permit for the Westland Mine in Chartiers Township, **Washington County** for postmining activity industrial waste treatment only. No additional discharges. Application received April 5, 2006.

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900.

32000104 and NPDES No. PA0235318. Alverda Enterprises, Inc., P. O. Box 87, Alverda, PA 15710, permit renewal for the continued operation and restoration of a bituminous surface mine in Pine Township, **Indiana County**, affecting 57.3 acres. Receiving streams: UNT to Yellow Creek classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received March 30, 2006.

56060103 and NPDES No. PA0249947. Amerikohl Mining, Inc., 1384 SR 711, Stahlstown, PA 15687, commencement, operation and restoration of a bituminous surface mine in Milford Township, Somerset County, affecting 71.0 acres. Receiving streams: UNTs to South Glade Creek and South Glade Creek classified for the following use: WWF. There are no potable water supply intakes within 10 miles downstream. The application includes a stream encroachment to allow coal extraction, haul road construction and erosion and sedimentation controls up to 50 foot stream barrier on both sides of the stream within the barrier area of UNT "A" to South Glade Creek. The application includes a stream encroachment to allow coal extraction and erosion and sedimentation controls up to 50 foot and passive treatment facilities up to 10 foot stream barrier north side of stream within the barrier area of UNT "B" to South Glade Creek. Application received March 17, 2006.

11960104 and NPDES No. PA0213365. L & J Energy Company, Inc., P. O. Box J, Grampian, PA 16838, permit renewal for reclamation only of a bituminous surface auger mine in Susquehanna Township, **Cambria County**, affecting 108.2 acres. Receiving streams: West Branch Susquehanna River; UNTs to West Branch Susquehanna River classified for the following uses: WWF; CWF. There are no potable water supply intakes within 10 miles downstream. Application received April 4, 2006.

56060104 and NPDES No. PA0249963. Fieg Brothers, 3070 Stoystown Road, Stoystown, PA 15563-8184, commencement, operation and restoration of a bituminous surface mine in Shade Township, **Somerset County**, affecting 107.2 acres. Receiving streams: Hinson Run; UNTs to Hinson Run classified for the following use: CWF. The first downstream potable water supply intake from the point of discharge is Cambria-Somerset Authority, Border Dam Intake on Stonycreek River. The application includes a stream encroachment to construct a haul road within the barrier area of and across Hinson Run, approximately 1,500 feet upstream of its junction with Doe Valley Drive. The purpose of the haul road is to provide access to the proposed mine site. Application received March 29, 2006.

Greensburg District Mining Office: Armbrust Building, R. R. 2 Box 603-C, Greensburg, PA 15601-0982, (724) 925-5500.

02-05-03 and NPDES Permit No. PA0250899. Kerry Coal Company (Road 2, Box 2139, Wampum, PA 16157). Application for a government financial construction contract, located in the City of Pittsburgh, **Allegheny County**, affecting 10.1 acres. Receiving streams: UNT to Streets Run, classified for the following use: WWF. The potable water supply intakes within 10 miles downstream from the point of discharge: PA American Water Co., Hays Mine Plant and West View Municipal Authority, Westview Water Filtration Plant. Application received: March 23, 2006.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118.

54830702R4 and NPDES Permit No. PA0613576. Swatara Coal Company (345 Freemans Road, Schuylkill Haven, PA 17972), renewal of an existing anthracite coal refuse disposal and breaker operation in Reilly Township, **Schuylkill County** affecting 180.4 acres, receiving stream: Swatara Creek. Application received April 3, 2006.

19860101R4. Jac-Mar Coal Co. t/a L & E Coal (Box 353, Cresco, PA 18326), renewal of an existing anthracite surface mine operation in Conyngham Township, **Columbia County** affecting 190.0 acres, receiving stream: none. Application received April 3, 2006.

Noncoal Applications Returned

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.

08980809. Peck Hill Farm (R. R. 3, Box 3188, Rome, PA 18837). Transfer of an existing small noncoal (Industrial Minerals—Bluestone) surface mining permit from Jesse Finch, Sr. (P. O. Box 91, Rome, PA 18837). The site is located in Windham Township, **Bradford County**, affecting 3 acres. Receiving streams: UNT to Wysox Creek. Application received: April 4, 2005. Application returned: March 22, 2006.

Noncoal Applications Received

Effluent Limits

The following noncoal mining applications that include an NPDES permit application will be subject to, at a minimum, the following technology-based effluent limitations for discharges of wastewater to streams:

<i>Parameter</i>	<i>30-day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
suspended solids	35 mg/l	70 mg/l	90 mg/l
Alkalinity exceeding acidity ¹		greater than 6.0; less than 9.0	
pH ¹			

¹ The parameter is applicable at all times.

A settleable solids instantaneous maximum limit of 0.5 ml/l applied to surface runoff resulting from a precipitation event of less than or equal to a 10-year 24-hour event. If coal will be extracted incidental to the extraction of noncoal minerals, at a minimum, the technology-based effluent limitations identified under coal applications will apply to discharges of wastewater to streams.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118.

58910802. Timothy Mark Smith (R. R. 3 Box 329E, Montrose, PA 18801), Stages I and II bond release for a

quarry operation in New Milford Township, **Susquehanna County** affecting 4.0 acres on property owned by David Grizzati. Application received April 4, 2006.

FEDERAL WATER POLLUTION CONTROL ACT, SECTION 401

The following permit applications, requests for Environmental Assessment approval and requests for 401 Water Quality Certification have been received by the Department of Environmental Protection (Department). Section 401 of the Federal Water Pollution Control Act (FWPCA)

(33 U.S.C.A. § 1341) requires the State to certify that the involved projects will not violate the applicable provisions of sections 301–303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311–1313, 1316 and 1317) as well as relevant State requirements. Persons objecting to approval of a request for certification under section 401 of the FWPCA or to the issuance of a Dam Permit, Water Obstruction and Encroachment Permit or the approval of an Environmental Assessment must submit comments, suggestions or objections within 30 days of the date of this notice, as well as questions, to the regional office noted before the application. Comments should contain the name, address and telephone number of the person commenting, identification of the certification request to which the comments or objections are addressed and a concise statement of comments, objections or suggestions including the relevant facts upon which they are based.

The Department may conduct a fact-finding hearing or an informal conference in response to comments if deemed necessary. Individuals will be notified, in writing, of the time and place of a scheduled hearing or conference concerning the certification request to which the comment, objection or suggestion relates. Maps, drawings and other data pertinent to the certification request are available for inspection between 8 a.m. and 4 p.m. on each working day at the regional office noted before the application.

Persons with a disability who wish to attend a hearing and require an auxiliary aid, service or other accommodation to participate in the proceedings should contact the specified program. TDD users should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

Applications received under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1–693.27) and section 302 of the Flood Plain Management Act (32 P. S. § 679.302) and requests for certification under section 401(a) of the FWPCA (33 U.S.C.A. § 1341(a)).

WATER OBSTRUCTIONS AND ENCROACHMENTS

Southeast Region: Water Management Program Manager, 2 East Main Street, Norristown, PA 19401.

E23-459. Gray Creighton, 475 Highland Avenue, Media, PA 19063, Upper Providence Township, **Delaware County**, ACOE Philadelphia District.

To perform the following water obstruction and encroachment activities associated with the proposed Creighton Tract Subdivision:

1. To excavate soils within the assumed floodway of a UNT to Ridley Creek (HQ-TSF) associated with the construction of a proposed stormwater management facility.
2. To install and maintain two stormwater outfalls (Endwall No. 59 and Basin 3A) to a UNT to Ridley Creek (HQ, TSF) for associated stormwater drainage.
3. To obtain an Environmental Assessment approval for the construction of a nonjurisdictional dam within the headwaters of a UNT to Ridley Creek (HQ, TSF) associated with the construction of a proposed stormwater management facility.

The proposed project is located adjacent to the intersection of Kirk Lane and Highland Avenue, PA (Media, PA Quadrangle N: 8.5 inches, W: 3.7 inches).

Southcentral Region: Watershed Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4707.

E05-338: Department of Environmental Protection, Engineering District 9-0, 1620 North Juniata Street, Hollidaysburg, PA 16648-1080, Bedford Township, **Bedford County**, ACOE Baltimore District.

To relocate 0.7 mile of SR 4009 (Business Route 220) located adjacent to the historic Bedford Springs Hotel for the purpose of improving roadway safety. The project will include the construction and maintenance of approximately 1,025 feet of retaining wall along the left bank of Shobers Run (HQ-CWF) (Rainsburg, PA Quadrangle, N: 22.3 inches; W: 0.6 inch; Latitude: 39° 59' 51"; Longitude: 78° 30' 16"), and the placement and maintenance of fill in 0.05 acre of PEM wetlands, and 0.01 acre of PSS wetlands in Bedford Township, Bedford County.

The project proposes to directly affect a total of 0.06 acre of wetland. Wetland replacement will be satisfied by using the Huntingdon County Advance Wetland Compensation Site.

E67-798: Department of Transportation, Engineering District 8-0, 2140 Herr Street, Harrisburg, PA 17103-1699 in Fairview Township, **York County**, ACOE Baltimore District.

To extend and maintain the upstream side of a 7.0-foot wide by 5.5-foot high box culvert 33.0 feet to have a total length of 72.0 feet in a UNT to Fishing Creek (TSF) located along SR 0262 (Fishing Creek Road) on the west side of the intersection of SR 0262 (Fishing Creek Road) and SR 1003 (Old York Road) (Steelton, PA Quadrangle N: 9.5 inches; W: 11.6 inches, Latitude: 40° 10' 39" Longitude: 76° 49' 59") in Fairview Township, York County. The culvert extension will require the relocation of 95 linear feet of stream channel and will impact 0.026 acre of PEM wetlands in Fairview Township, York County.

The project proposes to directly affect a total of 0.02 acre of palustrine emergent wetland habitat and temporarily impact 0.006 acre of palustrine emergent wetland. Wetland impacts are considered de minimis and replacement is not required.

E05-336, Shober's Run Golf Company, LLC, 5950 Berkshire Lane, Suite 990, Dallas, TX 75225, in Bedford Township, **Bedford County**, ACOE Baltimore District.

To restore Shober's Run (HQ-CWF) and UNTs to Shober's Run (HQ-CWF) and conduct other various activities at the Bedford Springs Golf Course including:

1. The construction and maintenance of a stream restoration project in and along Shober's Run beginning at the T-408 bridge (Rainsburg, PA Quadrangle N: 21.75 inches, W: 1.25 inches; Latitude: 39° 59' 39", Longitude: 78° 30' 33") and ending 7,787 feet upstream (Rainsburg, PA Quadrangle N: 19.65 inches, W: 3.42 inches; Latitude: 39° 58' 59", Longitude: 78° 31' 27") involving approximately 5,079 feet of channel relocation, floodway excavation and grading, 0.06 acre of permanent PFO wetland impacts and 0.01 acre of permanent PEM wetland impacts, 0.37 acre of temporary PFO wetland impacts and 0.02 acre of temporary PEM wetland impacts, and the placement of 16 rock cross vanes and 14 root wads.

2. The construction and maintenance of a stream restoration project in and along a UNT to Shober's Run (HQ-CWF) beginning at its mouth at Shober's Run (Rainsburg, PA Quadrangle N: 19.65 inches, W: 3.42 inches; Latitude: 39° 58' 59", Longitude: 78° 31' 27") and ending 211 feet upstream (Rainsburg, PA Quadrangle

N: 19.70 inches, W: 3.45 inches; Latitude: 39° 59' 01", Longitude: 78° 31' 28") involving the complete relocation of the channel including the relocation of its confluence with Shober's Run 850 feet downstream (Rainsburg, PA Quadrangle N: 19.9 inches, W: 3.1 inches; Latitude: 39° 59' 04", Longitude: 78° 31' 19"), the creation of an additional 879 feet of stream channel, floodway excavation and grading, 0.04 acre of permanent PFO wetland impacts, and 0.88 acre of temporary PFO wetland impacts and the placement of six rock cross vanes and ten root wads.

3. The construction and maintenance of a stream restoration project in and along a UNT to Shober's Run beginning at its confluence with Shober's Run (Rainsburg, PA Quadrangle N: 20.30 inches, W: 2.75 inches; Latitude: 39° 59' 11", Longitude: 78° 31' 10") and ending 717 feet upstream (Rainsburg, PA Quadrangle N: 20.05 inches, W: 2.60 inches; Latitude: 39° 59' 06", Longitude: 78° 31' 06") involving approximately 245 feet of channel relocation, floodway excavation and grading and the placement of five rock cross vanes.

4. The construction and maintenance of a stream restoration project in and along a UNT to Shober's Run beginning at its confluence with Shober's Run (Rainsburg, PA Quadrangle N: 20.70 inches, W: 2.55 inches; Latitude: 39° 59' 19", Longitude: 78° 31' 04") and ending 450 feet upstream (Rainsburg, PA Quadrangle N: 20.70 inches, W: 2.30 inches; Latitude: 39° 59' 19", Longitude: 78° 30' 58") involving approximately 300 feet of channel relocation, the creation of an additional 72 feet of stream channel, floodway excavation and grading, and the placement of 11 rock cross vanes.

5. The construction and maintenance of a channel extension on a UNT to Shober's Run beginning at its current confluence with Shober's Run (Rainsburg, PA Quadrangle N: 20.40 inches, W: 2.80 inches; Latitude: 39° 59' 14", Longitude: 78° 31' 12") and ending 95 feet east at a relocated reach of Shober's Run (Rainsburg, PA Quadrangle N: 20.35 inches, W: 2.30 inches; Latitude: 39° 59' 15", Longitude: 78° 31' 28").

6. To remove 12 existing golf cart bridges and to construct and maintain the following:

a. Six single-span golf cart bridges each having a width of 10 feet, a normal span of 80 feet, and an average underclearance of 4.5 feet across Shober's Run (Rainsburg, PA Quadrangle N: 21.72 inches, W: 1.32 inches, N: 21.42 inches, W: 1.75 inches, N: 21.25 inches, W: 2.07 inches, N: 20.75 inches, W: 2.55 inches, N: 20.00 inches, W: 2.92 inches, N: 19.72 inches, W: 3.40 inches; Latitude: 39° 59' 00", Longitude: 78° 31' 25", Latitude: 39° 59' 07", Longitude: 78° 31' 13", Latitude: 39° 59' 21", Longitude: 78° 31' 05", Latitude: 39° 59' 31", Longitude: 78° 30' 52", Latitude: 39° 59' 35", Longitude: 78° 30' 44", Latitude: 39° 59' 40", Longitude: 78° 30' 33");

b. One single-span golf cart bridge having a width of 10 feet, a normal span of 120 feet, and an underclearance of 4.5 feet across Shober's Run (Rainsburg, PA Quadrangle N: 20.35 inches, W: 2.8 inches; Latitude: 39° 59' 13", Longitude: 78° 31' 10"); and

c. One single-span golf cart bridge having a width of 10 feet, a normal span of 40 feet, and an underclearance of 3.5 feet across an off-stream pond (Rainsburg, PA Quadrangle N: 21.42 inches, W: 1.75 inches; Latitude: 39° 59' 35", Longitude: 78° 30' 44").

7. To remove eight existing golf cart bridges or culverts and to construct and maintain the following:

a. Five 20-foot long, 6-inch depressed, 36-inch CMP culverts in three UNTs to Shober's Run (Rainsburg, PA Quadrangle N: 20.70 inches, W: 2.30 inches, N: 20.15 inches, W: 2.70 inches, N: 20.10 inches, W: 2.65 inches, N: 20.10 inches, W: 2.65 inches, N: 20.05 inches, W: 2.60 inches; Latitude: 39° 59' 20", Longitude: 78° 30' 58", Latitude: 39° 59' 09", Longitude: 78° 31' 09", Latitude: 39° 59' 09", Longitude: 78° 31' 08", Latitude: 39° 59' 08", Longitude: 78° 31' 07", Latitude: 39° 59' 06", Longitude: 78° 31' 07");

b. One 20-foot long, 6-inch depressed, 57-inch by 38-inch arch culvert in a UNT to Shober's Run (Rainsburg, PA Quadrangle N: 19.75 inches, W: 3.35 inches; Latitude: 39° 59' 02", Longitude: 78° 31' 26"); and

c. One 20-foot long, 6-inch depressed, 36-inch CMP culvert in an off-stream pond (Rainsburg, PA Quadrangle N: 21.45 inches, W: 1.95 inches; Latitude: 39° 59' 35", Longitude: 78° 30' 49).

8. To construct and maintain seven temporary road crossings having a length of 30 feet and consisting of three 36-inch CMP culverts and clean rock fill in Shober's Run (Rainsburg, PA Quadrangle N: 21.65 inches, W: 1.55 inches, N: 21.40 inches, W: 1.95 inches, N: 21.20 inches, W: 2.20 inches, N: 20.80 inches, W: 2.55 inches, N: 20.50 inches, W: 2.65 inches, N: 20.15 inches, W: 2.80 inches, N: 20.00 inches, W: 3.05 inches; Latitude: 39° 59' 39", Longitude: 78° 30' 39", Latitude: 39° 59' 34", Longitude: 78° 30' 49", Latitude: 39° 59' 30", Longitude: 78° 30' 55", Latitude: 39° 59' 22", Longitude: 78° 31' 04", Latitude: 39° 59' 17", Longitude: 78° 31' 08", Latitude: 39° 59' 09", Longitude: 78° 31' 11", Latitude: 39° 59' 05", Longitude: 78° 31' 18").

9. To replace in-kind and maintain an existing 384-foot long, 12-inch diameter stream enclosure on a UNT to Shober's Run (Rainsburg, PA Quadrangle N: 20.95 inches, W: 2.10 inches; Latitude: 39° 59' 25", Longitude: 78° 30' 53").

10. To construct and maintain a 10-foot long, 8-inch diameter PVC intake structure along the left bank of Shober's Run (Rainsburg, PA Quadrangle N: 21.40 inches, W: 1.95 inches; Latitude: 39° 59' 34", Longitude: 78° 30' 49") to provide water to an offstream pond.

11. To construct and maintain an 18-inch diameter PVC intake structure with 0.5-inch protective screening located approximately 30 feet from the shoreline in Red Oaks Lake (Rainsburg, PA Quadrangle N: 19.85 inches, W: 2.40 inches; Latitude: 39° 59' 00", Longitude: 78° 30' 58").

12. To maintain 14 existing outfall structures ranging in diameter between 4 and 18 inches at various locations along the left and right floodways of Shober's Run and three UNTs to Shober's Run beginning at the T-408 (Rainsburg, PA Quadrangle N: 21.75 inches, W: 1.25 inches; Latitude: 39° 59' 39", Longitude: 78° 30' 33") and ending at a point 7,787 feet upstream as along Shober's Run (Rainsburg, PA Quadrangle N: 19.65 inches, W: 3.42 inches; Latitude: 39° 58' 59", Longitude: 78° 31' 27").

13. To construct and maintain 29 outfall structures ranging in diameter between 4 and 6 inches at various locations along the left and right floodways and channels of Shober's Run and three UNTs to Shober's Run beginning at the T-408 bridge (Rainsburg, PA Quadrangle N: 21.75 inches, W: 1.25 inches; Latitude: 39° 59' 39", Longitude: 78° 30' 33") and ending at a point 7,787 feet upstream along Shober's Run (Rainsburg, PA Quadrangle N: 19.65 inches, W: 3.42 inches; Latitude: 39° 58' 59", Longitude: 78° 31' 27").

14. To construct and maintain one 30-inch CMP outfall in a PEM wetland (Rainsburg, PA Quadrangle N: 21.80 inches, W: 1.65 inches; Latitude: 39° 59' 41", Longitude: 78° 30' 45").

15. To construct and maintain two 4-inch outfalls in an off-stream pond (Rainsburg, PA Quadrangle N: 21.42 inches, W: 1.75 inches; Latitude: 39° 59' 36", Longitude: 78° 30' 43").

16. To construct and maintain one 6-inch PVC outfall and a 5-foot wide riprap apron in Red Oaks Lake (Rainsburg, PA Quadrangle N: 19.85 inches, W: 2.4 inches; Latitude: 39° 59' 00", Longitude: 78° 30' 58").

17. To construct and maintain a 20-foot long, 4-inch diameter irrigation line crossing (Rainsburg, PA Quadrangle N: 20.00 inches, W: 2.90 inches; Latitude: 39° 59' 00", Longitude: 78° 31' 13"), a 16-foot long, 4-inch diameter irrigation line crossing (Rainsburg, PA Quadrangle N: 20.65 inches, W: 2.55 inches; Latitude: 39° 59' 16", Longitude: 78° 31' 00"), a 22-foot long, 6-inch diameter irrigation line crossing (Rainsburg, PA Quadrangle N: 21.00 inches, W: 2.40 inches; Latitude: 39° 59' 22", Longitude: 78° 30' 56"), and an 18-foot long, 4-inch diameter irrigation line crossing (Rainsburg, PA Quadrangle N: 21.75 inches, W: 1.30 inches; Latitude: 39° 59' 35", Longitude: 78° 30' 30") in Shober's Run.

18. To construct and maintain two 80-foot long, 4-inch diameter (Rainsburg, PA Quadrangle N: 19.72 inches, W: 3.40 inches, N: 21.25 inches, W: 2.07 inches; Latitude: 39° 58' 48", Longitude: 78° 31' 30", Latitude: 39° 59' 28", Longitude: 78° 30' 46") irrigation line crossings of Shober's Run attached to bridges.

19. To construct and maintain four 3-foot long, 4-inch diameter irrigation line crossings (Rainsburg, PA Quadrangle N: 19.75 inches, W: 3.35 inches, N: 20.05 inches, W: 2.60 inches, N: 20.10 inches, W: 2.65 inches, N: 20.70 inches, W: 2.45 inches; Latitude: 39° 58' 50", Longitude: 78° 31' 32", Latitude: 39° 59' 02", Longitude: 78° 31' 02", Latitude: 39° 59' 04", Longitude: 78° 31' 02", Latitude: 39° 59' 16", Longitude: 78° 30' 58") and one 3-foot long, 6-inch diameter irrigation line crossing (Rainsburg, PA Quadrangle N: 20.70 inches, W: 2.30 inches; Latitude: 39° 59' 18", Longitude: 78° 30' 52") in three UNTs to Shober's Run.

20. To construct and maintain one 30-foot long, 3-inch diameter irrigation line crossing of an off-stream pond (Rainsburg, PA Quadrangle N: 21.45 inches, W: 1.95 inches; Latitude: 39° 59' 30", Longitude: 78° 30' 46").

21. To construct and maintain a 190-foot long, 2-inch diameter irrigation line crossing of PFO wetlands resulting in 0.01 acre of temporary impacts (Rainsburg, PA Quadrangle N: 21.35 inches, W: 2.05 inches; Latitude: 39° 59' 30", Longitude: 78° 30' 49") and a 180-foot long, 2-inch diameter irrigation line crossing of PEM wetlands resulting in 0.01 acre of temporary impacts (Rainsburg, PA Quadrangle N: 21.80 inches, W: 1.65 inches; Latitude: 39° 59' 35", Longitude: 78° 30' 40").

22. To construct and maintain one 16-foot long, 15-inch diameter PVC sanitary sewer crossing in Shober's Run (Rainsburg, PA Quadrangle N: 20.70 inches, W: 2.55 inches; Latitude: 39° 59' 21", Longitude: 78° 31' 07") and one 3-foot long, 15-inch diameter PVC sanitary sewer crossing in a UNT to Shober's Run (Rainsburg, PA Quadrangle N: 20.70 inches, W: 2.50 inches; Latitude: 39° 59' 21", Longitude: 78° 31' 06").

23. To remove accumulated sediments from a 0.25-acre off-stream pond, to remove the existing outlet structure and fill 256 feet of the existing outlet channel, and to construct and maintain an 8-inch Agri-Drain water level control structure (Rainsburg, PA Quadrangle N: 21.42 inches, W: 1.75 inches; Latitude: 39° 59' 36", Longitude: 78° 30' 43").

24. To remove an existing golf cart path resulting in temporary impacts to 0.01 acre of PFO wetlands (Rainsburg, PA Quadrangle N: 20.35 inches, W: 2.85 inches; Latitude: 39° 59' 14", Longitude: 78° 31' 12").

25. To fill a total of 0.34 acre of four PEM wetlands at five separate locations (Rainsburg, PA Quadrangle N: 20.55 inches, W: 2.50 inches, N: 20.00 inches, W: 2.30 inches, N: 21.35 inches, W: 2.05 inches, N: 21.45 inches, W: 2.00 inches, N: 21.80 inches, W: 1.60 inches; Latitude: 39° 59' 17", Longitude: 78° 31' 03", Latitude: 39° 59' 27", Longitude: 78° 30' 57", Latitude: 39° 59' 32", Longitude: 78° 30' 53", Latitude: 39° 59' 36", Longitude: 78° 30' 51", Latitude: 39° 59' 42", Longitude: 78° 30' 44") and 0.08 acre of PSS wetlands (Rainsburg, PA Quadrangle N: inches, W: inches; Latitude: 39° 59' 42", Longitude: 78° 30' 44") for the construction of golf cart paths.

26. To temporarily impact 0.31 acre of PEM wetlands through tilling and application of a granular herbicide to convert the existing vegetative community (Rainsburg, PA Quadrangle N: 21.75 inches, W: 1.70 inches; Latitude: 39° 59' 41", Longitude: 78° 30' 44").

The project is located along Sweet Root Road (T-408) approximately 800 feet southeast of the Bedford Springs Hotel in Bedford Township, Bedford County and will result in a total of 9,900 linear feet of impacts to watercourses, approximately 0.25 acre of impacts to bodies of water, 0.49 acre of permanent impacts to wetlands, and 1.59 acres of temporary impacts wetlands. The applicant is required to create a total of 0.61 acre of wetlands at various locations along the left and right floodplains of Shober's Run beginning at the T-408 bridge (Rainsburg, PA Quadrangle N: 21.75 inches, W: 1.25 inches; Latitude: 39° 59' 39", Longitude: 78° 30' 33") and ending 7,787 feet upstream (Rainsburg, PA Quadrangle N: 19.65 inches, W: 3.42 inches; Latitude: 39° 58' 59", Longitude: 78° 31' 27").

Southwest Region: Watershed Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

E63-582. Claysville Borough, 154 Main Street, P. O. Box 423, Claysville, PA 15323. To construct a pedestrian walking bridge in Claysville Borough, **Washington County**, Pittsburgh ACOE District. (Claysville, PA Quadrangle N: 20.0 inches; W: 6.5 inches and Latitude: 40° 06' 36"—Longitude: 80° 25' 17"). The applicant proposes to construct and maintain a pedestrian walking bridge having a span of 4.5 feet with an underclearance of 6.3 feet across the channel of Dutch Fork (HQ-WWF) for the purpose of providing pedestrian access to Claysville Borough Park. The project is located on the west side of LR 62118 approximately 2,300.0 feet southwest from the intersection of LR 62118 and SR 231 and will impact 40.2 feet of stream channel.

E63-583. Center-West Joint Sewer Authority, P. O. Box 542, Brownsville, PA 15417. To construct an aerial pipeline across the channel of a UNT to the Monongahela River in Centerville Borough, **Washington County**, Pittsburgh ACOE District. (California, PA Quadrangle N: 4.25 inches; W: 5.0 inches and Latitude: 40° 01'

24"—Longitude: 79° 54' 39"). The applicant proposes to construct and maintain an aerial pipeline crossing across the channel of a UNT to the Monongahela River (WWF) for the purpose of constructing a sewage collection system and treatment facilities. The project is located on the south side of SR 88, approximately 800 feet east from the intersection of SR 88 and Brownsville Road.

E65-445 A1. Toro Development Company, 100 Sandune Drive, Pittsburgh, PA 15239. To extend an existing stream enclosure in the Municipality of Murrysville, **Westmoreland County**, Pittsburgh ACOE District. (Murrysville, PA Quadrangle N: 20.1 inches; W: 10.0 inches and Latitude: 40° 29' 08"—Longitude: 79° 41' 49"). The applicant proposes to amend Permit No. E63-445, by constructing and maintaining an approximately 761 ft. extension, of an existing 340 ft. stream enclosure. Both the existing and proposed pipe are 60 inches in diameter. The total length of the proposed structure will be approximately 1,101 ft., and will affect a UNT to Humms Run (TSF), to place and maintain 30 ft. of rock energy dissipator, in the aforementioned watercourse, at the outlet of the extended stream enclosure, and to place and maintain fill in a de minimis amount of wetland (less than 0.01 acre) for the purpose of expanding the existing Murry Ridge Corporate Center. The project is located on the south side of Golden Mile Highway (SR 286), just south from the intersection of Golden Mile Highway (SR 286) and Logan Ferry Road.

Northwest Region: Watershed Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

E16-131. Farmington Township, P. O. Box 148, 32691 Route 66, Leeper, PA 16233. Public Water and

Sewer Extension Project, in Farmington Township, **Clarion County**, ACOE Pittsburgh District (Between Lucinda, PA Quadrangle N: 41°, 20', 22.4"; W: 79°, 21', 5" and Tylersburg, PA Quadrangle N: 41°, 23', 23"; W: 79°, 15', 47").

To construct and maintain a total of approximately 33,000 linear feet of extensions to existing sanitary sewer and potable water lines in the area along SR 66 between the Villages of Snydersburg and Crown. Included are seven stream crossings and three wetland crossings by sewer and water lines. Impacted streams are Toby Creek, Foy Run, a tributary to Toby Creek and a tributary to Grolemund Run and are all listed as CWF in Chapter 93.

E42-321. Department of Transportation, Engineering District 2-0, 1924-30 Daisy Street, P. O. Box 342 Clearfield, PA. 16830. SR 0006, Section A02 across Allegheny River and Section A03 across Norfolk Southern Railroad, in Liberty Township, **McKean County**, ACOE Pittsburgh District (Port Allegheny, PA Quadrangle N: 13.56 inches; W: 6.75 inches).

To remove the existing structures and to construct and maintain a three span continuous pre-stressed I-Beam bridge having clear spans of 120, 125 and 120 feet and a minimum underclearance of 13.5 feet on a 75° skew across the Allegheny River (CWF) on SR 0006, and a single span prestressed concrete adjacent box beam bridge having a clear span of 100 feet across the Norfolk Southern Railroad on SR 0006, Section A03 approximately 0.4 mile east of Port Allegheny.

This project includes placement of fill in 0.033 acre of Palustrine Emergent Wetland and impacts to approximately 45 linear feet of Allegheny River.

ACTIONS

**THE CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT
FINAL ACTIONS TAKEN FOR NATIONAL POLLUTION DISCHARGE
ELIMINATION SYSTEM (NPDES) PERMITS AND WATER QUALITY
MANAGEMENT (WQM) PERMITS**

The Department of Environmental Protection (Department) has taken the following actions on previously received applications for new, amended and renewed NPDES and WQM permits, applications for permit waivers and Notices of Intent (NOI) for coverage under general permits. This notice is provided in accordance with 25 Pa. Code Chapters 91 and 92 and 40 CFR Part 122, implementing provisions of The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Federal Clean Water Act.

<i>Location</i>	<i>Permit Authority</i>	<i>Application Type or Category</i>
Section I	NPDES	Renewals
Section II	NPDES	New or amendment
Section III	WQM	Industrial, sewage or animal wastes; discharges to groundwater
Section IV	NPDES	MS4 individual permit
Section V	NPDES	MS4 permit waiver
Section VI	NPDES	Individual permit stormwater construction
Section VII	NPDES	NOI for coverage under NPDES general permits

Sections I—VI contain actions related to industrial, animal or sewage wastes discharges, discharges to groundwater and discharges associated with municipal separate storm sewer systems (MS4), stormwater associated with construction activities and concentrated animal feeding operations (CAFOs). Section VII contains notices for parties who have submitted NOIs for coverage under general NPDES permits. The approval for coverage under general NPDES permits is subject to applicable effluent limitations, monitoring, reporting requirements and other conditions set forth in each general permit. The approval of coverage for land application of sewage sludge or residential septage under applicable general permit is subject to pollutant limitations, pathogen and vector attraction reduction requirements, operational standards, general requirements, management practices and other conditions set forth in the respective permit. Permits and related documents, effluent limitations, permitting requirements and other information are on file and may be inspected and arrangements made for copying at the contact office noted before the action.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

I. NPDES Renewal Permit Actions

Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

NPDES No. (Type)	Facility Name & Address	County & Municipality	Stream Name (Watershed #)	EPA Waived Y/N
PA0040312 Industrial Waste	Molycorp, Inc.	Washington County Canton Township	Chartiers Creek	Y
PA0026328 Sewage	Township of Hopewell 1700 Clark Boulevard Aliquippa, PA 15001	Beaver County Hopewell Township	Raccoon Creek	Y

Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

NPDES No. (Type)	Facility Name & Address	County & Municipality	Stream Name (Watershed #)	EPA Waived Y/N ?
PA0024953	Keystone Shortway 76, Inc. 21251 Route 322 Strattanville, PA 16258	Clarion Township Clarion County	UNT to Douglas Run 17-B	Y
PA0221767	Keystone Shortway 76, Inc. 21251 Route 322 Strattanville, PA 16258	Clarion Township Clarion County	UNT to Douglas Run 17-B	Y
PA0093360	Lake Arthur Estates Mobile Home Park 2925 New Castle Road Portersville, PA 16051	Muddy Creek Township Butler County	UNT to Muddy Creek 20-C	Y
PA0000345	PA American Water Company—Clarion P. O. Box 888 Hershey, PA 17003	Clarion Township Clarion County	Clarion River 17-B	Y
PA0210668	Perseus House, Inc.—Andromeda House 1511 Peach Street Erie, PA 16501	Bloomfield Township Crawford County	UNT to Bloomfield Run	Y

II. New or Expanded Facility Permits, Renewal of Major Permits and EPA Nonwaived Permit Actions

Southeast Region: Water Management Program Manager, 2 East Main Street, Norristown, PA 19401.

NPDES Permit No. PA0036978, Sewage, **Telford Borough Authority**, 122 Penn Avenue, Telford, PA 18969. This proposed facility is located in Franconia Township, **Montgomery County**.

Description of Proposed Action/Activity: Approval for the renewal to discharge treated sewage from the wastewater treatment plant into Indian Creek in Watershed 3E.

NPDES Permit No. PA0244066, Sewage, **Bedminster Municipal Authority**, P. O. Box 92, Bedminster PA 18910-0092. This proposed facility is located in Bedminster Township, **Bucks County**.

Description of Proposed Action/Activity: Approval for the issuance of a NPDES Permit to discharge treated sewage from the plant serving Pennland Farms development into a UNT to Deep Run Creek.

NPDES Permit No. PA0013463, Industrial Waste, **U. S. Steel Corporation**, U. S. Real Estate, One Ben Fairless Drive, Fairless Hills, PA 19030. This proposed facility is located in Falls Township, **Montgomery County**.

Description of Proposed Action/Activity: Approval for the renewal to discharge process wastewater, noncontact cooling water and stormwater into the Delaware River Estuary Zone 2 in Watershed 2E.

III. WQM Industrial Waste and Sewerage Actions under The Clean Streams Law (35 P. S. §§ 691.1—691.1001)

Southeast Region: Water Management Program Manager, 2 East Main Street, Norristown, PA 19401.

WQM Permit No. 1504412, Sewerage, **Oxford Area Sewer Authority**, 401 East Market Street, P. O. Box 380, Oxford, PA 19363. This proposed facility is located in East Nottingham Township, **Chester County**.

Description of Action/Activity: Approval to construct a new storage lagoon to provide an additional storage capacity to the existing STP.

Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

WQM Permit No. WQG012217, Sewerage, **Richard Bogert**, 418 Male Road, Wind Gap, PA. This proposed facility is located in Bushkill Township, **Northampton County**.

Description of Proposed Action/Activity: This project is for a single residence sewage treatment facility to replace the existing malfunctioning onlot sewage disposal system.

Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

WQM Permit No. 2092404, Sewerage, **Amendment No. 1, Perseus House, Inc.**, Andromeda House, 1511 Peach Street, Erie, PA 16501. This proposed facility is located in Bloomfield Township, **Crawford County**.

Description of Proposed Action/Activity: This project is to install an extended aeration package plant to the existing sewage treatment facility.

WQM Permit No. 1006401, Sewerage, **Cooper Lake Farms, Inc., Cooper Lake Campground STP**, 205 Currie Road, Slippery Rock, PA 16057. This proposed facility is located in Worth Township, **Butler County**.

Description of Proposed Action/Activity: This project is for the construction and operation of a sewage treatment facility to service the Cooper Lake Campground.

IV. NPDES Stormwater Discharges from MS4 Permit Actions

V. NPDES Waiver Stormwater Discharges from MS4 Actions

VI. NPDES Discharges of Stormwater Associated with Construction Activities Individual Permit Actions

Southeast Region: Water Management Program Manager, 2 East Main Street, Norristown, PA 19401.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI010906002	Palisades School District Palisades HS Athletic Fields 39 Thomas Free Drive Kintnersville, PA 18930	Bucks	Nockamixon Township	Rapp Creek (HQ-CWF)

Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI024805023	Nazareth Development, LLC 25 South Main St. Nazareth, PA 18064	Northampton	Bushkill Township	Bushkill Creek HQ-CWF
PAI024805020	Ashley Development Corp. 559 Main St., Suite 300 Bethlehem, PA 18018	Northampton	Lower Nazareth Township	East Branch Monocacy Creek HQ-CWF
PAI023905034	Khan Partnership 4825 Tilghman St. Allentown, PA	Lehigh	South Whitehall Township	Cedar Creek HQ-CWF
PAI023905014	Bethany United Methodist Church 1208 North Brookside Rd. Allentown, PA 18062	Lehigh	Lower Macungie Township	Little Lehigh Creek HQ-CWF

NOTICES

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<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI025204010	Richard Scholl P. O. Box 306 Paupack, PA 18451	Pike	Palmyra Township	Blooming Grove Creek HQ-CWF
PAI020004001(1)	Columbia Gas Transmission Corp. 1700 MacCorkle Ave., S. E. Charleston, WV 25314-1518	Northampton, Monroe and Pike	Forks, Lower Mt. Bethel, Washington, Upper Mt. Bethel, Smithfield, Middle Smithfield, Lehman, Delaware and Dingman Townships	Mud Run CWF Martins Creek TSF, MF Little Martins Creek CWF Oughoughton Creek CWF East Fork Martins Creek CWF Jacoby Creek CWF Slateford Creek EV Cherry Creek HQ-CWF, MF Brodhead Creek TSF, MF Marshalls Creek HQ-CWF Pond Creek HQ-CWF Bush Kill HQ-CWF Little Bush Kill EV Tributaries to Delaware River HQ-CWF Toms Creek EV Hornbecks Creek HQ-CWF Dingmans Creek HQ-CWF Adams Creek EV Long Meadow Brook EV Conashaugh Creek HQ-CWF and/or their tributaries

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4707.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
Sinking Spring Borough Berks County	PAR10C4551	Carl Wright Wright-Elliot Land Development 532 Bryn Mawr Ave. Swarthmore, PA 19081	Cacoosing Creek WWF	Berks County Conservation District 1238 County Welfare Road P. O. Box 520 Leesport, PA 19533-0520 (610) 372-4657, Ext. 201
Womelsdorf Borough Berks County	PAG2000606017	Harold Wiker Longleaf Development Company P. O. Box 5362 Lancaster, PA 17606	UNT to Tulpehocken Creek TSF	Berks County Conservation District 1238 County Welfare Road P. O. Box 520 Leesport, PA 19533-0520 (610) 372-4657, Ext. 201

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
Robesonia Borough Heidelberg Township Berks County	PAG2000605096	Jack Keener P. O. Box 309 Newmanstown, PA 17073	Furnace Creek CWF	Berks County Conservation District 1238 County Welfare Road P. O. Box 520 Leesport, PA 19533-0520 (610) 372-4657, Ext. 201
Spring Township Berks County	PAG2000606025	Peter Carlino Carlino Development Group 875 Berkshire Blvd. Suite 102 Wyomissing, PA 19610	Cacoosing Creek/ TSF	Berks County Conservation District 1238 County Welfare Road P. O. Box 520 Leesport, PA 19533-0520 (610) 372-4657, Ext. 201
Colebrookdale Township Berks County	PAG2000606018	David Szablowski Boyertown Area School District 911 Montgomery Ave. Boyertown, PA 19512	Swamp Creek TSF	Berks County Conservation District 1238 County Welfare Road P. O. Box 520 Leesport, PA 19533-0520 (610) 372-4657, Ext. 201
Hampden Township Cumberland County	PAG2002106009	Hampden Township Good Hope Road Improvements 230 South Sporting Hill Road Mechanicsburg, PA 17050	UNT Sears Run WWF	Cumberland County Conservation District 43 Brookwood Ave. Carlisle, PA 17013 (717) 240-7812
Monroe Township Cumberland County	PAG2002105052	RLP Properties, LLC Eagle's Crest Subdivision 3 Truffle Glen Road Mechanicsburg, PA 17050	Yellow Breeches Creek CWF	Cumberland County Conservation District 43 Brookwood Ave. Carlisle, PA 17013 (717) 240-7812
Lower Allen Township Cumberland County	PAG2002106004	BHH Partners Heights of Beacon Hill, Phase 3 15 Central Boulevard Camp Hill, PA 17011	Yellow Breeches Creek CWF	Cumberland County Conservation District 43 Brookwood Ave. Carlisle, PA 17013 (717) 240-7812

VII. Approvals to Use NPDES and/or Other General Permits

The EPA Region III Administrator has waived the right to review or object to this permit action under the waiver provision 40 CFR 123.23(d).

List of NPDES and/or Other General Permit Types

PAG-1	General Permit for Discharges from Stripper Oil Well Facilities
PAG-2	General Permit for Discharges of Stormwater Associated with Construction Activities (PAR)
PAG-3	General Permit for Discharges of Stormwater from Industrial Activities
PAG-4	General Permit for Discharges from Single Residence Sewage Treatment Plants
PAG-5	General Permit for Discharges from Gasoline Contaminated Ground Water Remediation Systems
PAG-6	General Permit for Wet Weather Overflow Discharges from Combined Sewer Systems
PAG-7	General Permit for Beneficial Use of Exceptional Quality Sewage Sludge by Land Application
PAG-8	General Permit for Beneficial Use of Nonexceptional Quality Sewage Sludge by Land Application to Agricultural Land, Forest, a Public Contact Site or a Land Reclamation Site
PAG-8 (SSN)	Site Suitability Notice for Land Application under Approved PAG-8 General Permit Coverage
PAG-9	General Permit for Beneficial Use of Residential Septage by Land Application to Agricultural Land, Forest or a Land Reclamation Site
PAG-9 (SSN)	Site Suitability Notice for Land Application under Approved PAG-9 General Permit Coverage
PAG-10	General Permit for Discharge Resulting from Hydrostatic Testing of Tanks and Pipelines

PAG-11 (To Be Announced)
 PAG-12 CAFOs
 PAG-13 Stormwater Discharges from MS4

General Permit Type—PAG-2

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Bedminster Township Bucks County	PAG2000905160	Jaster Associates, LLC 437 King Road Doylestown, PA 18901	Cabin Run (CWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Plumstead Township Bucks County	PAG2000905158	Lou Cicalese P. O. Box 1040 Plumsteadville, PA 18949	Tohickon Creek (CWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Buckingham Township Bucks County	PAR10D5701	Georgianna Coles P. O. Box 245 Holicong, PA 18928	Watson's Creek (CWF-MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Springfield Township Bucks County	PAG2000905116	Blue Church Development, LLC 325 Godshall Drive Harleysville, PA 19438	Tohickon Creek (TSF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Hilltown Township Bucks County	PAG2000905174	Haines & Kibblehouse, Inc. P. O. Box 196 Skippack, PA 19474-01968	North Neshaminy Creek (TSF-MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Richland Township Bucks County	PAG2000905054	Jay Saddington 1164 Log College Drive Warminster, PA 18974	Tohickon Creek (TSF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Bridgeton Township Bucks County	PAG2000905142	Narrows Hill Assoc., LP 1630 Crescent Boulevard Yardley, PA 19067	Falls Creek (WWF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Penn Township Chester County	PAG2001505067	Jennersville Self Storage Lot No. 3 Roselane Industrial Pk. West Grove, PA 19390	East Branch White Clay Creek (TSF-MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Caln Township Chester County	PAG2001505067	Handicrafters, Inc. 215 Barley Sheaf Road Thorndale, PA 19372	UNT Valley Creek (CWF-MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Upper Providence Township Montgomery County	PAG2002305072	Blundin Builders, Inc. P. O. Box 152 Morton, PA 19070	Ridley Creek (TSF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Hazleton City Luzerne County	PAG2004006004	Robert Conahan Central Air Freight Services, Inc. 23rd and Peace Street Hazleton, PA 18201	Cranberry Creek CWF	Luzerne County Conservation District (570) 674-7991
Lathrop Township Springville Township Lenox Township Susquehanna County	PAG2005806002	Tennessee Gas Pipeline Co. 1001 Louisiana St. Room 1156A Houston, TX 77002	Horton Creek, Hop Bottom Creek, Upper Susquehanna Tunkhannock Watershed CWF	Susquehanna County Conservation District (570) 278-4600
North Whitehall Township Lehigh County	PAG2003906009	Ken Synder SK Development Co., Inc. 3312 Seventh St. Whitehall, PA 18052	Fells Creek CWF	Lehigh County Conservation District (610) 391-9583

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Heidelberg Township Lehigh County	PAG2003906013	David Jandl Jandl Land Co. 3150 Coffeetown Rd. Orefield, PA 18069	Mill Creek CWF, MF	Lehigh County Conservation District (610) 391-9583
Hanover Township Lehigh County	PAG2003906012	Robert Kiel Liberty Property Trust 1510 Valley Ctr. Pkwy. Bethlehem, PA 18017	Lehigh River CWF	Lehigh County Conservation District (610) 391-9583
Pittston Township Jenkins Township Luzerne County	PAG2004005049	Mericle Armstrong Road, LLC East Mtn. Corp. Center 100 Baltimore Drive Wilkes-Barre, PA 18702-7939	Tributary to Susquehanna River CWF	Luzerne County Conservation District (570) 674-7991
Lower Saucon Township Northampton County	PAG2004806008	Ashley Development Corp. 559 Main St., Suite 300 Bethlehem, PA 18018	Tributary to Lehigh River CWF	Northampton County Conservation District (610) 746-1971
Great Bend Township Susquehanna County	PAG2005806001	Jason Auckland 102 Centennial Drive Richlandtown, PA 18955-1031	Susquehanna River WWF	Susquehanna County Conservation District (570) 278-4600
Williams Township Northampton County	PAG2004806010	Sky King Fireworks of Easton, Inc. Attn: Joseph VanOdenhove, III 7350 South US 1 Port St. Lucie, FL 34952	Lehigh River CWF	Northampton County Conservation District (610) 746-1971
Elkland Borough Osceola Township Tioga County	PAG2005906006	Department of Environmental Protection P. O. Box 218 715 Jordan Ave. Montoursville, PA 17754	Cowanesque River CWF	Tioga County Conservation District 50 Plaza Lane Wellsboro, PA 16901 (570) 724-1801
Tioga Township Tioga County	PAG2005905002	Department of Environmental Protection P. O. Box 218 715 Jordan Ave. Montoursville, PA 17754	Tioga River Bentley Creek WWF	Tioga County Conservation District 50 Plaza Lane Wellsboro, PA 16901 (570) 724-1801
Lawrence County Wilmington Township	PAG2003706002	Rob Hodge, Hodgeco, Inc. 215 Gilmore Road New Castle, PA 16102	UNT Little Neshannock Creek TSF	Lawrence Conservation District (724) 652-4512
Mercer County Springfield Township	PAG2004305018	Terence W. Farren 123 West Main Street Grove City, PA 16127	UNT to Black Run CWF	Mercer Conservation District (724) 662-2242
Slippery Rock Borough and Slippery Rock Township Butler County	PAG2101006001	BAMR P. O. Box 8476 Harrisburg, PA 17105-8476	UNT to Slippery Rock Creek (CWF)	BAMR P. O. Box 8476 Harrisburg, PA 17105-8476 (717) 783-1311

General Permit Type—PAG-3

*Facility Location:
Municipality &
County*

<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
City of Philadelphia Philadelphia County	PAR800138 DHL Express USA Inc. 7600 Holstein Ave. Philadelphia, PA 19153	Schuylkill River 3F Watershed	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5970

Facility Location:

<i>Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
City of Philadelphia Philadelphia County	PAR600082	Sammy's Auto Parts 3405 S. 61st St. Philadelphia, PA 19153	Schuylkill River 3F Watershed	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5970

*General Permit Type—PAG-4**Facility Location:*

<i>Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Haycock Township Bucks County	PAG040037	Lon Moyer 1071 Old Bethlehem Pike Quakertown, PA 18951	UNT to Dimple Creek Watershed 2D Three Mile Run	Southeast Regional Office 2 East Main Street Norristown, PA 19401
Haycock Township Bucks County	PAG040044	David and Kathleen Keough 65 Wrenwood Way Wrightstown PA 18940	UNT to Dimple Creek Watershed 2D Three Mile Run	Southeast Regional Office 2 East Main Street Norristown, PA 19401

*General Permit Type—PAG-5**Facility Location:*

<i>Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Doylestown Borough Bucks County	PAG050014	Getty Petroleum Marketing, Inc. 1500 Hempstead Turnpike East Meadow, NY 11554	Pine Run 2F	Southeast Regional Office 2 East Main Street Norristown, PA 19401
Springfield Township Delaware County	PAG050049A2	Motiva Enterprises, LLC P. O. Box 1243 Waynesboro, VA 22980-1243	UNT to Stony Creek	Southeast Regional Office 2 East Main Street Norristown, PA 19401

General Permit Type—PAG-8

<i>Facility Name</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Facility Municipality and County</i>	<i>Contact Office & Phone No.</i>
Johnstown Regional Wastewater Treatment Plant	PAG086106	Redevelopment Authority of the City of Johnstown Public Safety Building 4th Floor 401 Washington Street Johnstown, PA 15901	West Taylor Township Cambria County	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh PA 15222-4745 (412) 442-4000

*General Permit Type—PAG-9**Facility Location & County/Municipality*

<i>County/Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Site Name & Location</i>	<i>Contact Office & Phone No.</i>
Plum Creek Township Armstrong County	PAG096110	Robert J. Craig P. O. Box 28 Elderton, PA 15736	J and D Septic Service, Inc.	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh PA 15222-4745 (412) 442-4000

PUBLIC WATER SUPPLY (PWS) PERMITS

The Department of Environmental Protection has taken the following actions on applications received under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17) for the construction, substantial modification or operation of a public water system.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the

Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available

in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

SAFE DRINKING WATER

Actions taken under the Pennsylvania Safe Drinking Water Act

Southeast Region: Water Supply Management Program Manager, 2 East Main Street, Norristown, PA 19401.

Permit No. 0906502, Public Water Supply.

Applicant **Bucks County Water and Sewer Authority**
1275 Almshouse Road
Warrington, PA 18976

Township Solebury

County **Bucks**

Type of Facility PWS

Consulting Engineer Carroll Engineering Corporation
949 Easton Road, Suite 100
Warrington, PA 18976

Permit to Construct Issued March 28, 2006

Permit No. 0904509, Public Water Supply.

Applicant **Pennland Bedminster, LP**
2424 Bristol Road
Warrington, PA 18976

Township Bedminster

County **Bucks**

Type of Facility PWS

Consulting Engineer Carroll Engineering Corporation
949 Easton Road, Suite 100
Warrington, PA 18976

Permit to Construct Issued April 3, 2006

Permit No. 1506503, Minor Amendment. Public Water Supply.

Applicant **Pennsylvania-American Water Company**
800 West Hersheypark Drive
Hershey, PA 17033

Township Valley

County **Chester**

Type of Facility PWS

Consulting Engineer Scott M. Thomas
Pennsylvania-American Water Company
852 Wesley Drive
Mechanicsburg, PA 17055

Permit to Construct Issued March 31, 2006

Southcentral Region: Water Supply Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Permit No. 0606503 MA, Minor Amendment, Public Water Supply.

Applicant **Western Berks Water Authority**

Municipality Lower Heidelberg Township

County **Berks**

Type of Facility Installation of SolarBee Solar Powered Reservoir Circulator in the existing Sugarloaf Tank No. 1.

Consulting Engineer James C Elliot, P. E.
Gannett Fleming, Inc.
P. O. Box 67100
Harrisburg, PA 17106-7100

Permit to Construct Issued 4/10/2006

Wellhead Protection Program Approval issued to **Section A Water Corporation**, P. O. Box 31, Fairfield, PA 17320, PWSID 7010033, Carroll Valley Borough, **Adams County** on April 6, 2006.

Southwest Region: Water Supply Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Operations Permit issued to **Pennsylvania-American Water Company**, 800 Hersheypark Drive, Hershey, PA 17033, (PWS ID 5020039) Union Township, **Washington County** on March 31, 2006 for the operation of facilities approved under Construction Permit No. 6399502.

Operations Permit issued to **Consol Energy, Inc.**, 1027 Little Indian Creek Road, Morgantown, WV 26505, (PWS ID 5300832) Wayne Township, **Greene County** on April 11, 2006 for the operation of facilities approved under Construction Permit No. 3096502.

Permit No. 1103503MA, Minor Amendment. Public Water Supply.

Applicant **Northern Cambria Municipal Authority**
1202 Philadelphia Avenue
Northern Cambria, PA 15714

Borough or Township Susquehanna Township and Northern Cambria Borough

County **Cambria**

Type of Facility Replacement roof for the existing 500,000 gallon reservoir

Consulting Engineer Stiffler, McGraw & Associates, Inc.
19 N. Juniata Street
P. O. Box 462,
Hollidaysburg, PA 16648

Permit to Operate Issued April 6, 2006

Permit No. 6595501T1, Minor Amendment. Public Water Supply.

Applicant **Waterford Water Works**
1 Municipal Park Drive
Ligonier, PA 15658

Borough or Township Ligonier Township

County	Westmoreland
Type of Facility	Waterford well, tank, control structure and interconnection.
Permit to Operate Issued	April 11, 2006

HAZARDOUS SITES CLEANUP UNDER THE ACT OF OCTOBER 18, 1988

Prompt Interim Response

Berkley Products Company Plant Site, West Earl Township and Akron Borough, Lancaster County, PA.

The Department of Environmental Protection (Department), under the authority of the Hazardous Sites Cleanup Act (HSCA) (35 P. S. §§ 6020.101—6020.1305) has initiated a prompt interim response at the Berkley Products Company Plant Site (Berkley), 405 South 7th Street, Akron, PA 17501. This response has been initiated under sections 501(a) and 505(b) of the HSCA (35 P. S. §§ 6020.501(a) and 6020-505(b)).

Berkley is located at 405 South 7th Street in West Earl Township and is bordered by the Borough of Akron, Lancaster County. The approximately 2.5-acre facility is located on a hillside sloping from South 7th Street at the front to South 9th Street at the rear. Residential properties surround most of the site, but a few commercial properties are also present. The site can be found on the United States Geological Survey Ephrata, PA, quadrangle map at north 40° 14' 01" latitude and west 76° 12' 33" longitude.

Berkley is an operating facility producing customized coatings and has manufactured coatings at the facility since 1955. During most of their operation, solvents were used as drying agents in the coatings and for cleaning the manufacturing equipment. At some point, Berkley began reprocessing their solvent waste for reuse in the manufacturing process. Beginning in 1974, Berkley began accepting solvent waste for reprocessing and reuse. In 1980, Berkley submitted a Part A Application for Resource Conservation and Recovery Act (RCRA) Interim Status as a treatment and storage facility. By then Berkley was blending waste for cement kiln fuel and consolidating waste for shipment to various disposal facilities. The waste streams included toluene, trichloroethene (TCE), other individual solvents and chemicals and solvent and chemical mixtures. The facility is in the RCRA Corrective Action Program but is financially unable to address environmental problems. Soil, groundwater and surface water contamination have been identified. Although the area is served by a public water supply, the groundwater contamination plume extends beneath neighboring residences presenting a VOC groundwater-to-indoor-air (vapor intrusion) threat.

The Department considered three alternatives:

1) Institutional controls, no action for the indoor air Medium Specific Concentration (MSC) VOC exceedances in residential homes affected by vapor intrusion emanating from the Berkley Plant.

2) Install air mitigation systems in the residential homes affected by vapor intrusion emanating from the Berkley Company Plant Site. The basement walls and floors of the homes would also be sealed to prevent vapor intrusion. Postinstallation indoor air sampling would be

conducted to verify the effectiveness of the systems and sealing work. The Department will cover all the costs associated with the installation and testing of the systems. However, thereafter each homeowner will be responsible for the electric costs to operate the system.

3) Treat the contaminated groundwater plume to mitigate the levels of VOC contaminants emanating from the Berkley Plant. This would entail a long-term remedial action as in-situ chemical treatment or construction of an onsite pump and treatment system. This option would be time and cost intensive. Residential exposure threats would continue during the period of time that in-situ treatment or operation of the pump and treatment system removes the VOCs from the groundwater to the degree needed to mitigate vapor intrusion threats.

The Department has determined that prompt action is required to protect the public health and safety and the environment and has consequently chosen Alternative 2. This prompt interim action is not intended to be the final remedy for the Berkley site.

The Department is providing this notice under sections 505(b) and 506(b) of HSCA (35 P. S. §§ 6020.505(b) and 6020.506(b)), and the publication of this notice starts the administrative record period under HSCA. The Administrative Record which contains information about this site and which supports the Department's decision to perform this action at the site is available for public review and comment. The Administrative Record can be examined from 8 a.m. to 3:30 p.m. at the Department's Southcentral Regional Office, 909 Elmerton Avenue, Harrisburg, PA 17110 by contacting David Hrobuchak at (717) 705-4843. The Administrative Record may also be reviewed at the Akron Borough Municipal Office, 117 South Seventh Street, Akron, PA 17501 by calling (717) 859-1600.

The Administrative Record will be open for comment beginning April 22, 2006, and will remain open for 90 days. Persons may submit written comments regarding this action to the Department before July 24, 2006, by mailing them to David Hrobuchak at the Department's Southcentral Regional Office address.

The public will have an opportunity to present oral comments regarding the proposed action at a public hearing. The hearing has been scheduled for June 7, 2006, at 7 p.m. at the Mennonite Central Committee Welcoming Place, 21 South 12th Street, Akron, PA. Persons wishing to present formal oral comments at the hearing should register before 4 p.m., June 2, 2006, by calling Sandra Roderick at (717) 705-4931.

If no person registers to present oral comments by June 2, 2006, the hearing will not be held but will be replaced with an informational meeting. Persons interested in finding out if anyone has registered, and if the hearing will be held, should also contact Sandra Roderick at (717) 705-4931. An informational meeting will be held following the hearing.

Persons with a disability who wish to attend the hearing and require an auxiliary aid, service or other accommodation to participate in the proceedings should call Sandra Roderick at (717) 705-4931 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 2

The following plans and reports were submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Provisions of Chapter 3 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of submission of plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the act's remediation standards. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis for selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling analytical results which demonstrate that remediation has attained the cleanup standard selected. Submission of plans and reports, other than the final report, shall also be published in the *Pennsylvania Bulletin*. These include the remedial investigation report, risk assessment report and cleanup plan for a site-specific standard remediation. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media; benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements.

For further information concerning plans or reports, contact the Environmental Cleanup Program manager in the Department regional office after which the notice of receipt of plans or reports appears. If information concerning plans or reports is required in an alternative form, contact the Community Relations Coordinator at the appropriate regional office. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

Southeast Region: Environmental Cleanup Program Manager, 2 East Main Street, Norristown, PA 19401.

Wm. H. Ziegler School, City of Philadelphia, **Philadelphia County**. Gloria Hunsberger, Powell-Harpstead, Inc., 800 E. Washington St., West Chester, PA 19380 on behalf of Francine Locke, School Dist. of Philadelphia, 440 N. Broad St., 3rd Floor, Room 3052, Philadelphia, PA 19103 has submitted a Remedial Investigation Report and Cleanup Plan concerning remediation of site soil contaminated with arsenic, lead and inorganics. The report is intended to document remediation of the site to meet the Statewide Health Standard and Site-Specific Standard.

7401 State Rd. Site, City of Philadelphia, **Philadelphia County**. Michael Christie, Penn E & R, Inc., 2755 Bergey Rd., Hatfield, PA 19440 on behalf of Daniel, Franklin and Bernard Featherman, 9605 San Vittore St.,

Lake Woth, FL 33467 has submitted a Final Report concerning remediation of site soil and groundwater contaminated with chlorinated solvents, PAH, PCBs and inorganics. The report is intended to document remediation of the site to meet the Statewide Health Standard and Site-Specific Standard.

Slutzsky Prop., Northampton Township, **Bucks County**. Edward E. Prout, Jr., ARC, Inc., 1000 W. Broad St., Quakertown, PA 18951 on behalf of Harvey Slutzsky, 40 Tulip Rd., Holland, PA 18966 has submitted a Final Report concerning remediation of site soil contaminated with No. 2 fuel oil. The report is intended to document remediation of the site to meet the Statewide Health Standard.

Cognis Corp. Ambler Ballfield Area, Lower Gwynedd Township, **Montgomery County**. Jay Ash, AMO Env. Decisions, 4327 Point Pleasant Pike, P. O. Box 410, Danboro, PA 18916 has submitted a Final Report concerning remediation of site soil contaminated with pesticides, PCBs, herbicides and dioxin. The report is intended to document remediation of the site to meet the Statewide Health Standard.

Shelly Plaza Shopping Ctr., City of Philadelphia, **Philadelphia County**. Samuel Kucia, Env. Consulting, Inc., 500 E. Washington St., Norristown, PA 1940 on behalf of Michael Willner, Willner Realty & Dev., Co., 140 S. 69th St., Upper Darby, PA 19082 has submitted a Final Report concerning remediation of site groundwater contaminated with other organics. The report is intended to document remediation of the site to meet the Statewide Health Standard.

Sunoco 0004-8413, Uwchlan Township, **Chester County**. Susan E. Cameron, GES, Inc., 410 Eagleview Blvd., Suite 110, Exton, PA 19341 on behalf of North Point Prop. Owners Assoc., 15 E. Uwchlan Ave., Exton, PA 19341 has submitted a Remedial Investigation Report, Risk Assessment Report and Cleanup Report concerning remediation of site soil and groundwater contaminated with lead and BTEX. The report is intended to document remediation of the site to meet the Statewide Health Standard and Site-Specific Standard.

Marcus Hook Refinery/No. 3 Tank Farm #220 Area, Bethel Township, **Delaware County**. Heidi Gahnz, Resource Control Corp., 1274 N. Church St., Moorestown, NJ 08057 on behalf of Brad Fish, Sunoco Proj. Mgr., Sunoco, Inc. (R & M), Blueball and Post Rd., Marcus Hook, PA 19061 has submitted a Final Report concerning remediation of site groundwater contaminated with unleaded gasoline and BTEX. The report is intended to document remediation of the site to meet the Site-Specific Standard.

CVS Store Doylestown, Doylestown Borough, **Bucks County**. Justin Lauterbach, RT Env. Svc., Inc., 510 Heron Dr., Bridgeport, NJ 08014 has submitted a Final Report concerning remediation of site soil contaminated with lead, arsenic and benzo(a)pyrene. The report is intended to document remediation of the site to meet the Site-Specific Standard.

Dodge Steel Casting, City of Philadelphia, **Philadelphia County**. Robert Quick, P. G., Quick Tech Env., Inc., 205 Tuckerton Rd., Suite 207, Medford, NJ 08055 on behalf of George Diemer, First Philadelphia Holdings, LLC, 3000 Atrium Way, Suite 219, Mt. Laurel, NJ 08054 has submitted a Remedial Investigation Report and Cleanup Plan concerning remediation of site soil and groundwater contaminated with lead, arsenic and inorganics. The report is intended to document remediation of the site to meet the Site-Specific Standard.

Northeast Regional Field Office, Joseph A. Brogna, Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.

Murray Motors West, Upper Macungie Township, **Lehigh County**. Jody Schmell, Project Manager, Axiom Environmental Services, LLC, P. O. Box 20522, Lehigh Valley, PA 18002, has submitted a Final Report (on behalf of John Noble, Murray Motors West, 1118 Route 100 South, Trexlertown, PA 18087) concerning the remediation of leaded gasoline constituents found or suspected to be present in site soils as the result of historic operations. The report was submitted in order to demonstrate attainment of the Statewide Health Standard. A Notice of Intent to Remediate was simultaneously submitted.

Former Tamaqua MGP Plant, Borough of Tamaqua, **Schuylkill County**. John J. Mahfood, Principal, Corporate Environmental Solutions LLC, 260 Millers Run Road, Bridgeville, PA 15017 has submitted a Final Report (on behalf of PPL Electric Utilities, Two North Ninth Street, Allentown, PA 18101) concerning the remediation of petroleum hydrocarbons and polycyclic aromatic hydrocarbons in site soils and groundwater. The report was submitted in order to demonstrate attainment of the Site-Specific Standard.

338 Porter Street Residence, City of Easton, **Northampton County**. Natalie Hsueh, React Environmental Professional Services Group, 6901 Kingsessing Avenue, 2nd Floor, Philadelphia, PA 19142, has submitted a Final Report (on behalf of Adam Cohen and Tara McKiniry, property owners; Philip Mitman and Linda Walden, former property owners; and Allstate Insurance, 1200 Atwater Drive, Suite 110, Malvern, PA 19355) concerning the remediation of soil found or suspected to have been impacted by the accidental release of No. 2 home heating oil from an underground storage tank on the property. The report was submitted in order to demonstrate attainment of the residential Statewide Health Standard.

Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Albright College (Former Reading Armory and Rudolf Scrapyrd Parcels), City of Reading, **Berks County**. Synergy Environmental, Inc., 607 Washington Street, Reading, PA 19604, on behalf of Albright College, P. O. Box 15234, Reading, PA 19612-5234, submitted a Baseline Environmental Report concerning remediation of site soils and groundwater contaminated with PCBs, inorganics and organics. The site is being remediated as a Special Industrial Area.

Sunoco—Shippensburg, Shippensburg Borough, **Cumberland County**. Aquaterra Technologies, Inc., P. O. Box 744, West Chester, 19381, on behalf of Sunoco, Inc. (R & M), 5733 Butler Street, Pittsburgh, 15201, submitted a Remedial Investigation Report and Cleanup Plan concerning remediation of site soils and groundwater contaminated with unleaded gasoline. The report is intended to document remediation of the site to the Site-Specific Standard.

DDSP SWMU 17, Fairview Township, **York County**. Weston Solutions, Inc., 1400 Weston Way, West Chester, 19380, on behalf of Defense Distribution Depot Susquehanna PA, 2001 Mission Drive, New Cumberland, 17070, submitted a Final Report concerning remediation of site soils and groundwater contaminated with solvents. The report is intended to document remediation of the site to the Site-Specific standard.

Southwest Region: Environmental Cleanup Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Johnstown Festival Park (Former Central Oil House), City of Johnstown, **Cambria County**. Von Eric Fisher, KU Resources, Inc., 22 South Linden Street, Duquesne, PA 15110 (on behalf of Richard Burkert, Johnstown Area Heritage Association, 201 Sixth Avenue, Johnstown, PA 15906 and Deborah Walter, Johnstown Redevelopment Authority, 401 Washington Street, Johnstown, PA 15901) has submitted a Final Report concerning remediation of site soil and groundwater contaminated with VOCs. The report is intended to document remediation of the site to meet the Site-Specific Standard.

Costco Wholesale Store, West Homestead Borough, **Allegheny County**. Christopher Carlson, P. G., ATC Associates Inc., 2200 Garden Drive, Suite 200, Seven Fields, PA 16046 (on behalf of Heidi Macomber, Costco Wholesale Corp., 45940 Horseshoe Drive, Suite 150, Sterling VA 20166) has submitted a Remedial Investigation Report concerning remediation of site soils contaminated with concentrations of thallium above Statewide Health Standard. Pathway elimination proposed by capping with a building footprint and parking lot. The report is intended to document remediation of the site to meet the Site-Specific Standard.

Northwest Region: Environmental Cleanup Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

Carbone of Amer Ind Graphite Materials Div., City of St. Marys, **Elk County**. Cleason S. Smith, Hydro-systems Management, Inc., Glass Works Center, Suite 109, 332 S. Main St., Washington PA 15301, on behalf of Edward Stumpff, Carbone of America Ind., Corp., 215 Stackpole St., Suite 1, St. Marys, PA 15857, has submitted a Remedial Investigation Report and a Risk Assessment Report concerning remediation of site Soil and Groundwater contaminated with Dichloroethane, 1,2-Dichloroethylene, CIS-1,2-and Trichloroethylene (TCE). The report is intended to document remediation of the site to meet the Site Specific Standards.

Carbone of Amer Ind Graphite Materials Div., City of St. Marys, **Elk County**. Cleason S. Smith, Hydro-systems Management, Inc., Glass Works Center, Suite 109, 332 S. Main St., Washington PA 15301, on behalf of Edward Stumpff, Carbone of America Ind., Corp., 215 Stackpole St., Suite 1, St. Marys, PA 15857, has submitted a Remedial Investigation Report and a Risk Assessment Report concerning remediation of site Soil and Groundwater contaminated with Dichloroethane, 1,2-Dichloroethylene, CIS-1,2-and Trichloroethylene (TCE). The reports are intended to document remediation of the site to meet the Site Specific Standards.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 3

The Department has taken action on the following plans and reports under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Provisions of 25 Pa. Code § 250.8, administration of the Land Recycling and Environmental Remediation Standards Act (act), require the Department of Environmental Protection (Department) to publish in the *Pennsylvania*

Bulletin a notice of final actions on plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the remediation standards of the act. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis of selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected. Plans and reports required by provisions of the act for compliance with selection of remediation to a site-specific standard, in addition to a final report, include a remedial investigation report, risk assessment report and cleanup plan. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media, benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements. A work plan for conducting a baseline remedial investigation is required by provisions of the act for compliance with selection of a special industrial area remediation. The baseline remedial investigation, based on the work plan, is compiled into the baseline environmental report to establish a reference point to show existing contamination, describe proposed remediation to be done and include a description of existing or potential public benefits of the use or reuse of the property. The Department may approve or disapprove plans and reports submitted. This notice provides the Department's decision and, if relevant, the basis for disapproval.

For further information concerning the plans and reports, contact the Environmental Cleanup Program manager in the Department regional office before which the notice of the plan or report appears. If information concerning a final report is required in an alternative form, contact the Community Relations Coordinator at the appropriate regional office. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

Southeast Region: Environmental Cleanup Program Manager, 2 East Main Street, Norristown, PA 19401.

Dodge Steel Casting, City of Philadelphia **Philadelphia County**. Robert Quick, P. G., Quick Tech Env., Inc., 205 Tuckerton Rd., Suite 207, Medford, NJ 08055 on behalf of George Diemer, First Philadelphia Holdings, LLC, 3000 Atrium Wy., Suite 219, Mt. Laurel, NJ 08054 has submitted a Remedial Investigation Report and Cleanup Plan concerning the remediation of site soil and groundwater contaminated with lead, arsenic and inorganics. The Remedial Investigation Report and Cleanup Plan were approved by the Department on April 7, 2006.

Oxford Former MGP Site, Oxford Borough, **Chester County**. John A. Ducar, P. G., RETEC Group, Inc., 3040 William Pitt Wy Pittsburgh, PA 15238 on behalf of Michael J. Hassel, PPL Gas Utilities Corp., Two N. Ninth St., GENTW-17, Allentown, PA 18101-1179 has submitted a Remedial Investigation Report concerning the remediation of site soil and groundwater contaminated with

diesel fuel, inorganics, other organics and PAH. The Remedial Investigation Report was approved by the Department on February 23, 2006.

Venice Island, City of Philadelphia, **Philadelphia County**. Tess Andress, RT Env. Svc., Inc., 510 Herson Dr., P. O. Box 521, Bridgeport, NJ 08014 on behalf of Dan Neducsin, Neducsin Prop. Mgmt., Inc., 161 Leverington Ave., Suite 100, Philadelphia, PA 19127 has submitted a Remedial Investigation Report and Cleanup Plan concerning the remediation of site soil contaminated with inorganics and PAH. The Remedial Investigation Report and Cleanup Plan were approved by the Department on January 24, 2006.

Mr. Lee Cleaners, Upper Moreland Township **Montgomery County**. Rickard Sacks, Sigma Env., Svc., Inc., 1514 Harmon Rd., Harleysville, PA 19438 on behalf of Chris Anderson, Goodman Prop. 636 Old York Rd., Jenkintown, PA 19046 has submitted a Final Report concerning the remediation of site soil contaminated with PCE. The Final report demonstrated attainment of the Site-Specific Standard and was approved by the Department on March 27, 2006.

Selas Corp. of Amer, Upper Dublin Township **Montgomery County**. Wm. Schmidt, P. E., Pennoni Assoc., Inc., 3001 Market St., Philadelphia, PA 19104 on behalf of Peter Clelland, BT Limekline, P. G., 2600 Philmont Ave., Suite 212, Huntingdon Valley, PA 19006 has submitted a Final Report concerning the remediation of site soil and groundwater contaminated with PCBs and organics. The Final report demonstrated attainment of the Statewide Health Standard and was approved by the Department on April 6, 2006.

436 Bridge Street Prop., Phoenixville Borough **Chester County**. Bruce Speidel, P. E., EBI Consulting, 6876 Susquehanna, Trail S., York, PA 17403 on behalf of Charles Morelli, 451 Swedesford Rd., Frazier, PA 19355 has submitted a Final Report concerning the remediation of site soil contaminated with leaded gasoline. The Final report demonstrated attainment of the Statewide Health Standard Report and was approved by the Department on March 31, 2006.

Lansdale Holding Group Associates, LP, Lansdale Borough or Township, **Montgomery County**. Donald L. Coleman, P. G., Penn E & R, Inc., 2755 Bergey Rd., Hatfield, PA 19440 on behalf of Peter Economou, Lansdale Holding Group Assoc., LP, 230 Windsor Ave., 1st Floor, Narberth, PA 19072 has submitted a Final Report concerning the remediation of site soil and groundwater contaminated with organics and chlorinated solvents. The Final report demonstrated attainment of the Statewide Health Standard and was approved by the Department on March 22, 2006.

David Prop., City of Philadelphia, **Philadelphia County**. Jeffrey K. Walsh, P. G., Penn E & R, Inc., 2755 Bergey Rd., Hatfield, PA 19440 on behalf of Robert Rosenthal, Westrum Park Place, LP, 370 Commerce Dr., Ft. Washington, PA 19304 has submitted a Remedial Investigation Report, Risk Assessment Report and Cleanup Plan concerning the remediation of site soil and groundwater contaminated with petroleum compounds, metals, polynuclear aromatic hydrocarbons and other organic compounds. The Remedial Investigation Report, Risk Assessment Report and Cleanup Plan were approved by the Department on April 4, 2006.

Capozzi Prop., City of Philadelphia, **Philadelphia County**. Jeffrey K. Walsh, Penn E & R, Inc., 2755 Bergey Road, Hatfield, PA 19440 on behalf of Robert Rosenthal,

Westrum Park Place, LP, 370 Commerce Dr., Ft. Washington, PA has submitted a Remedial Investigation Report, Risk Assessment Report and Cleanup Plan concerning the remediation of site soil and groundwater contaminated with unleaded gasoline. The Remedial Investigation Report, Risk Assessment Report and Cleanup Plan were approved by the Department on April 4, 2006.

Northeast Regional Field Office, Joseph A. Brogna, Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.

Former Olin Microelectronics Materials, Inc., Plainfield Township, **Northampton County**. Michael J. Bellotti, Principal Remediation Specialist, Olin Corporation, P. O. Box 248, 1186 Lower River Road, NW, Charleston, TN 37310-0248 submitted both a Cleanup Plan and a Final Report concerning the remediation of soils and/or groundwater found or suspected to have been contaminated with inorganics as the result of historic site operations. The reports demonstrated attainment of a combination of the non-residential Statewide Health and Site-Specific Standards and were approved on March 30, 2006.

Former Stauffer Chevrolet, North Union Township, **Schuylkill County**. Bob Helkowski, Engineer, Malcolm Pirnie, Inc., 1700 Market Street, Suite 2740, Philadelphia, PA 19103 submitted a Final Report (on behalf of FNBM Trust and Financial Services, c/o James T. O'Brien, 260 Sunbury Street, Minersville, PA 17954) concerning the remediation of soils found or suspected to be contaminated with petroleum products, lead and other compounds associated with the property's historical use as an auto dealership and auto repair facility. The report demonstrated attainment of the residential Statewide Health Standard and was approved on March 28, 2006.

Bandy Property, Hamilton Township, **Monroe County**. Quad Three Group Inc., 72 Glenmaura National Boulevard, Moosic, PA 18507 submitted a Final Report (on behalf of their client, Danielle Bandy, P. O. Box 701, Sciota, PA 18354) concerning the remediation of soils found or suspected to have been contaminated with No. 2 fuel oil constituents as the result of an accidental overflow. The report demonstrated attainment of the residential Statewide Health Standard and was approved on March 13, 2006.

Former Cross Country Clothes (West and Station Alleys), Borough of Northampton, **Northampton County**. Brendan O'Donnell, P. G., HRP Associates, Inc., 4811 Jonestown Road, Suite 235, Harrisburg, PA 17109 submitted a Final Report (on behalf of his client, Posh Properties, Inc. 2216 Willow Park Road, Bethlehem, PA 18017) concerning the remediation of site soils suspected to have been impacted by chlorinated solvents due to historic operations at the site. The report demonstrate attainment of the Statewide Health Standard and was approved on March 20, 2006.

Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Olswfski Property/McDannell Oil, Freedom Township, **Adams County**. Alternative Environmental Solutions, 930 Pointview Avenue, Suite B, Ephrata, PA 17522 on behalf of Michael A. Olswfski, 620 McGlaughlin Road, Fairfield, PA 17320 and McDannell Oil, 322 Oak Drive, Orrtanna, PA 17353, submitted a Final Report concerning remediation of site soils contaminated with kerosene. The Final Report demonstrated attainment of the residential Statewide Health Standard, and was approved by the Department on April 4, 2006.

Anna E. Kirchoff Property, Manheim Township, **Lancaster County**. Hafer Environmental Services, Inc., P. O. Box 4418, Reading, PA 19606, on behalf of Anna E. Kirchoff, c/o Judith Hoar, Esq., Trout, Ebersole & Groff, LLP, 1705 Oregon Pike, Lancaster, PA 19601-4200, submitted a Final Report concerning remediation of site soils contaminated with leaded and unleaded gasoline from a nonregulated underground storage tank. The Final Report demonstrated attainment of the residential Statewide Health Standard, and was approved by the Department on April 10, 2006.

Susquehanna Township School District-Middle School, Susquehanna Township, **Dauphin County**. Alliance Environmental Services, Inc., 1820 Linglestown Road, Harrisburg, PA 17110, on behalf of Susquehanna Township School District, 3550 Elmerton Avenue, Harrisburg, PA 17109, submitted a Final Report concerning remediation of site soils and groundwater contaminated with heating fuel oil. The Final Report did not demonstrate attainment of the Statewide Health Standard, and was disapproved by the Department on April 10, 2006.

HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES

Permits issued, suspended, expired, denied, revoked, reinstated or returned under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and regulations to operate a hazardous waste treatment, storage or disposal facility.

Southcentral Region: Regional Solid Waste Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Permit No. PAD010154045. Envirite of Pennsylvania, Inc. 730 Vogelsong Road, York, PA 17404, City of York, **York County**. This permit has been issued on February 17, 2006.

REGISTRATION FOR GENERAL PERMIT—RESIDUAL WASTE

Registration issued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Residual Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and residual waste regulations for a general permit to operate residual waste processing facilities and/or the beneficial use of residual waste other than coal ash.

Central Office: Division of Municipal and Residual Waste, Rachel Carson State Office Building, 14th Floor, 400 Market Street, Harrisburg, PA 17105-8472.

General Permit Registration No. WMGR097R004. Blair County, 215 Old Route 220 South, Duncansville PA 16635. Registration to operate under General Permit No. WMGR097R004 authorizes operation of a composting demonstration facility. The registration was issued by Central Office on April 5, 2006.

Persons interested in reviewing the General Permit may contact Ronald C. Hassinger, Chief, General Permits/Beneficial Use Section, Division of Municipal and Residual Waste, Bureau of Waste Management, P. O. Box 8472, Harrisburg, PA 17105-8472, (717) 787-7381. TDD users may contact the Department through the Pennsylvania Relay Service, (800) 654-5984.

OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

Permit approved under the Solid Waste Management Act (35 P. S. §§ 6018.101–6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101–4000.1904) and regulations to operate solid waste processing or disposal area or site.

Northeast Region: Regional Solid Waste Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

Permit Application No. 100932. Environmental & Recycling Services, Inc., 1100 Union Street, Taylor, PA 18517. A permit modification, which modifies the existing expiration date (March 31, 2006) of the permit renewal for this construction and demolition waste landfill located in Taylor Borough, **Lackawanna County**. The permit was issued in the Regional Office on March 31, 2006, providing a new expiration date of March 31, 2007.

Permit modification issued under the Solid Waste Management Act (35 P. S. §§ 6018.101–6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101–4000.1904) and regulations to operate solid waste processing or disposal area or site.

Southwest Region: Regional Solid Waste Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Permit ID No. 300558. Little Blue Run Disposal Impoundment, FirstEnergy Generation Corp., Bruce Mansfield Plant, Shippingport, PA. Operation of a captive residual waste disposal impoundment in Greene Township, **Beaver County and Hancock County, WV**. Permit modification for changes in the operations plan and a demonstration project issued in the Regional Office on April 5, 2006.

AIR QUALITY

General Plan Approval and Operating Permit Usage Authorized under the Air Pollution Control Act (35 P. S. §§ 4001–4015) and 25 Pa. Code Chapter 127 to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401; Thomas McGinley, New Source Review Chief, (484) 250-5920.

AQ-SE-0014: Haines and Kibblehouse, Inc. (P. O. Box 196, 2052 Lucon Road, Skippack, PA 19474) on April 4, 2006, to operate a portable crushing plant in Lower Pottsgrove Township, **Montgomery County**.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Ronald Davis, New Source Review Chief, (717) 705-4702.

GP7-67-03135: Beard Printing and Publishing (3627 Sandhurst Drive, York, PA 17402) on April 4, 2006, for Sheetfed Offset Lithographic Printing Press under GP7 in Manchester Township, **York County**.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; William Charlton, New Source Review Chief, (412) 442-4174.

GP2-04-00034U: Engineered Polymer Solutions d/b/a Valspar Coatings (372 Cleveland Avenue Rochester, PA 15074) on March 30, 2006, to operate approxi-

mately 65 volatile organic liquid storage tanks in Rochester Township, **Beaver County**.

Plan Approvals Issued under the Air Pollution Control Act (35 P. S. §§ 4001–4015) and regulations in 25 Pa. Code Chapter 127, Subchapter B relating to construction, modification and reactivation of air contamination sources and associated air cleaning devices.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Ronald Davis, New Source Review Chief, (717) 705-4702.

22-05012B: ISG Steelton, LLC (215 South Front Street, Steelton, PA 17113-2538) on April 10, 2006, to construct a natural gas fired boiler, capacity 27.7 mmBtu/hr in the Steelton Borough, **Dauphin County**.

22-05035A: Eastern Industries, Inc. (P. O. Box 177, Winfield, PA 17889-0177) on April 4, 2006, to replace the existing primary jaw crusher, the existing grizzly and blacktop screens and to refurbish the dust collector that controls the blacktop plant at their Elizabethtown quarry in Washington Township, **Dauphin County**.

36-05001D: Armstrong World Industries, Inc. (1507 River Road, Marietta, PA 17547) on April 6, 2006, to modify perlite expanders in East Donegal Township, **Lancaster County**.

36-05136A: Granger Energy of Honey Brook, LLC (481 South Churchtown Road, Narvon, PA 17555) on April 10, 2006, to construct a landfill gas-fired engine. The landfill gas-fired engine will be at the Granger landfill gas treatment plant at the Lancheater Landfill in Caernarvon Township, **Lancaster County**.

67-05005D: PPL Brunner Island, LLC (2 North 9th Street, Allentown, PA 18101-1139) on April 5, 2006, to install two flue gas desulfurization systems for the three bituminous coal-fired electric utility boilers (Units 1-3) and to construct of two 500 horsepower diesel-fired engines at the Brunner Island Steam Electric Station in East Manchester Township, **York County**.

Plan Approval Revisions Issued including Extensions, Minor Modifications and Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001–4015) and 25 Pa. Code §§ 127.13, 127.13a and 127.32.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401; Thomas McGinley, New Source Review Chief, (484) 250-5920.

15-0114: Action Manufacturing Co. (500 Bailey Crossroads Road, Atglen, PA 19310) on April 4, 2006, to operate a thermal treatment unit in West Fallowfield Township, **Chester County**.

23-0012: Epsilon Product Co., LLC (Post Road and Blueball Avenue, P. O. Box 432, Marcus Hook, PA 19061) on April 4, 2006, to operate plant 2 and thermal oxidizer in Marcus Hook Borough, **Delaware County**.

46-0242: BAE Systems Information and Electronics Systems Integration, Inc. (305 Richardson Road, Lansdale, PA 19446) on April 7, 2006, to operate two natural gas-fired generators in Montgomery Township, **Montgomery County**.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Ronald Davis, New Source Review Chief, (717) 705-4702.

67-03122: Key Plastics, Inc. (3350-3390 Farmtrail Road, York, PA 17402) on March 16, 2006, to install three automated paint lines controlled by dry filters and a regenerative thermal oxidizer in Manchester Township, **York County**. This plan approval was extended.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; William Charlton, New Source Review Chief, (412) 442-4174.

56-00210A: PBS Coals, Inc. (1576 Stoystown Road, Friedens, PA 15541) on April 7, 2006, to complete construction of their Cambria Preparation Plant at Stonycreek Township, **Somerset County**. This plan approval was extended.

56-00011B: New Enterprise Stone and Lime Co., Inc. (P. O. Box 77, New Enterprise, PA 16664) on April 10, 2006, to increase throughput limitations and decrease hours of operation previously established under PA-56-00011B, as well as, include a requirement for water sprays at appropriate locations for a Nonmetallic Mineral Processing Plant known as the Central City Sand Plant in Shade Township, Somerset County at their facility in Luzerne Township, **Fayette County**. This is a Plan Approval modification.

Plan Approvals Denied, Terminated, Modified, Suspended or Revoked under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and the provisions of 25 Pa. Code §§ 127.13b and 127.13c.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701; David Aldenderfer, Program Manager, (570) 327-3637.

17-399-020: Eagle Environmental II, LP (11 New Street, Englewood Cliffs, NJ 07632) on March 31, 2006, a request for an extension of a plan approval to construct a residual waste landfill in Chest Township, **Clearfield County**, was returned because the plan approval has expired.

Operating Permits for Non-Title V Facilities Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401; Edward Jurdones Brown, Facilities Permitting Chief, (484) 250-5920.

09-00019: Miller and Son Paving, Inc. (1371 West Street Road, Warminster, PA 18974) on April 7, 2006, to operate the quarry, crush stone and produce hot asphalt to the facility Synthetic Minor Operating Permit in Wrightstown Township, **Bucks County**.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Ronald Davis, New Source Review Chief, (717) 705-4702.

36-03161: Compass Quarries, Inc. d/b/a Independent Construction Materials (P. O. Box 130, 47 McIlvaine Road, Paradise, PA 17562) on April 3, 2006, to operate their stone crushing and limestone pulverizing plants in Paradise Township, **Lancaster County**.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; Mark Wayner, Facilities Permitting Chief, (412) 442-4174.

03-00062: Freeport Terminals, Inc. (P. O. Box 29, Butler, PA 16003) on April 3, 2006, to operate an

intermodal terminal at Freeport Terminals in Freeport Borough in **Armstrong County**. This is a State-only Operating Permit.

03-00104: M and M Lime Co., Inc. (R. R. 1, Box 257-M, Worthington, PA 16262-9753) on March 29, 2006, to operate a limestone crushing/screening plant with associated dust control equipment and four diesel generator engines at their AG Lime Plant in West Franklin Township, **Armstrong County**. This is a State-only Operating Permit.

63-00414: Avella Area School District (1000 Avella Road, Avella, PA 15312) on March 31, 2006, to operate two CNB Tri-Fuel boilers model No. 75L, both rated at 2.6 mmBtu/hr at their Elementary and High Schools in Avella Township in **Washington County**. This is a State-only Operating Permit.

04-00181: Interstate Chemical Company Inc. (2797 Freedland Road, Hermitage, PA 16148-9027) on April 10, 2006, for their Vanport Terminal and Storage facility in Vanport Township, **Beaver County**.

65-00595: Westmoreland Regional Hospital (532 West Pittsburgh Street, Greensburg, PA 15601) on April 10, 2006, to operate one Cleaver Brooks 4 pass-fire tube boiler and one Union Iron Works water tube boiler, both rated at 20.9 mmBtu/hr at the Westmoreland Regional Hospital in Greensburg, PA, **Westmoreland County**.

Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104; Edward Braun, Chief, 215-685-9476.

N04-013: The Bellevue (200 South Broad Street, Philadelphia, PA 19102) on April 6, 2006, to operate a hotel and shops in the City of Philadelphia, **Philadelphia County**. The facility's air emission sources include two 12.5 mmBtu/hr boilers.

Operating Permit Revisions Issued including Administrative Amendments, Minor Modifications or Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.412, 127.450, 127.462 and 127.464.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Ronald Davis, New Source Review Chief, (717) 705-4702.

22-03055: Kimmel's Coal and Packaging, Inc. (Machamer Avenue, P. O. Box 1, Wiconisco, PA 17097) on March 31, 2006, to operate their coal preparation facility in Wiconisco Township, **Dauphin County**. This operating permit was administratively amended to incorporate Plan Approval 22-03055A. This is revision No. 1.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701; David Aldenderfer, Program Manager, (570) 327-3637.

41-00002: Koppers, Inc. (P. O. Box 189, Montgomery, PA 17752) on April 7, 2006, under the minor modification requirements of 25 Pa. Code § 127.462, to allow the use of waste creosote-treated flooring blocks as fuel in a cogeneration boiler previously allowed to use waste creosote-treated railroad crossties and utility poles as fuel in Clinton Township, **Lycoming County**.

De Minimis Emissions Increases Authorized under 25 Pa. Code § 127.449.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; Mark Wayner, Facilities Permitting Chief, (412) 442-4174.

56-00287: Friends to End, Inc. (5491 Somerset Pike, Hollsopple, PA 15935) on April 5, 2006, for a State-only operating permit for a crematory in Jenner Township, **Somerset County**. These de minimis increases result from the installation of a small crematory (less than 75 lb/hr) operating 6,000 hours per year. De minimis increases of 0.6+ tpy PM, 0.1 tpy CO, 0.4 tpy NOx, 0.3 tpy SOx and 0.4 tpy VOCs are approved.

ACTIONS ON COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Actions on applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); and The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). The final action on each application also constitutes action on the request for 401 Water Quality Certification and the NPDES permit application. Mining activity permits issued in response to the applications will also address the application permitting requirements of the following statutes: the Air Quality Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

Coal Permits Actions

California District Office: 25 Technology Drive, Coal Center, PA 15423, (724) 769-1100.

26970702 and NPDES Permit No. PA0215112, Matt Canestrale Contracting, Inc. (P. O. Box 234, Belle Vernon, PA 15012-0234), to renew the permit for the LaBelle Site in Luzerne Township, **Greene County** and related NPDES Permit. No additional discharges. Permit issued April 4, 2006.

32011302 and GP12-32011302-R3, AMFIRE Mining Company, LLC (One Energy Place, Latrobe, PA 15650), to revise the permit for the Gillhouser Run Deep Mine in Buffington Township, **Greene County** to allow particulate matter emissions for construction of coal screen and truck loading from stockpile over unpaved haul road. Permit issued April 6, 2006.

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, 814-472-1900.

11850111 and NPDES No. PA0597490, E. P. Bender Coal Company, South Main Street, P. O. Box 565-566, Carrolltown, PA 15722-0565, permit renewal for reclamation only of a bituminous surface-auger mine in Dean Township, **Cambria County**, affecting 170.3 acres. Receiving streams: UNT to Brubaker Run and Brubaker Run classified for the following uses: CWF; CWF. There are no potable water supply intakes within 10 miles downstream. Application received February 10, 2006. Permit issued: April 3, 2006.

11910101 and NPDES No. PA0599093, E. P. Bender Coal Company, Inc., P. O. Box 594, Carrolltown, PA 15722-0594, permit renewal for the continued operation and restoration of a bituminous surface-auger mine in Reade Township, **Cambria County**, affecting 88.0 acres. Receiving streams: UNT to and Powell Run classified for the following use: CWF. There are no potable water

supply intakes within 10 miles downstream. Application received February 10, 2006. Permit issued April 3, 2006.

56900112 and NPDES No. PA058976, Future Industries, Inc., P. O. Box 157, Meyersdale, PA 15552, permit renewal for the continued operation and restoration of a bituminous surface mine in Summit Township, **Somerset County**, affecting 650.0 acres. Receiving streams: Stony Batter Run; Shaffer Run classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received December 27, 2005. Permit issued April 4, 2006.

56030107 and NPDES No. PA0249521, Future Industries, Inc., P. O. Box 157, Meyersdale, PA 15552, revision of an existing bituminous surface mine to add a stream variance including a stream crossing and a SMP boundary revision of 2.8 acres in Brothersvalley Township, **Somerset County**, affecting 182.1 acres. Receiving streams: UNTs to Buffalo Creek and Buffalo Creek; UNTs to Millers Run and Millers Run classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received January 4, 2006. Permit issued April 6, 2006.

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.

17030117 and NPDES Permit No. PA0243639, Forcey Coal, Inc. (P. O. Box 225, Madera, PA 16661). Auger mining safety permit application to an existing bituminous surface mine of the Brookville coal seam. The permit is located in Bigler Township, **Clearfield County**. Receiving streams: UNTs to Clearfield Creek and Banian Run to Clearfield Creek to West Branch Susquehanna River. Application received: January 18, 2006. Permit issued: March 30, 2006.

17940107 and NPDES Permit No. PA 0219801, River Hill Coal Company, Inc. (P. O. Box 141, Kylertown, PA 16847). Permit renewal for the continued operation and restoration of a bituminous surface mine in Karthaus Township, **Clearfield County**, affecting 440.0 acres. Receiving streams: tributaries to Saltlick Run and tributaries to Upper Three Runs to the West Branch of the Susquehanna River; and tributaries directly to the West Branch Susquehanna River. Application received: April 7, 2005. Permit issued: March 27, 2006.

17010102 and NPDES Permit No. PA0219967, Compass Coal Company (P. O. Box 169, Punxsutawney, PA 15767). Permit renewal for the continued operation and restoration of a bituminous surface mine in Chest Township, **Clearfield County**, affecting 117.0 acres. Receiving streams: North Camp Run to Chest Creek to West Branch of the Susquehanna River. Application received: February 9, 2006. Permit issued: March 22, 2006.

17990101 and NPDES Permit No. PA0238228, Sky Haven Coal, Inc. (5510 State Park Road, Penfield, PA 15849). Auger Safety Permit for an existing bituminous surface mine permit of Middle Kittanning coal seam. The permit is located in Girard Township, **Clearfield County**. Receiving streams: UNTs to Surveyor Run, to Surveyor Run, to the West Branch of the Susquehanna River. Application received March 22, 2006. Permit issued: April 4, 2006.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118.

54663021R4 and C6, Reading Anthracite Company (P. O. Box 1200, Pottsville, PA 17901), renewal and correction of an existing anthracite surface mine to include biosolids and coal ash disposal for reclamation in New

Castle Township, **Schuylkill County** affecting 693.0 acres. Receiving stream: none. Applications received October 11, 2005, and December 20, 2005. Renewal and Correction issued April 3, 2006.

54803204R4. Gilberton Coal Company (10 Gilberton Road, Gilberton, PA 17934), renewal of an existing anthracite coal refuse reprocessing operation in **Butler and Conyngham Townships and Ashland Borough, Schuylkill and Columbia Counties** affecting 24.6 acres. Receiving stream: none. Application received June 29, 2005. Renewal issued April 4, 2006.

Noncoal Permits Actions

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.

17010301 and NPDES No. PA0243124. Onyx Greentree Landfill, LLC (635 Toby Road, Kersey, PA 15846), revision of an existing noncoal surface mine for change in land use in **Huston Township, Clearfield County**, affecting 26 acres. Receiving streams: UNTs. Application received: February 3, 2006. Permit issued March 30, 2006.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118.

7874SM1T2. Total Recycling Corp. d/b/a Total Recycling Resources (3715 Remaly Street, Bethlehem, PA 18018), transfer of an existing slag operation in **Hanover Township, Lehigh County** affecting 22.7 acres. Receiving stream: none. Application received August 11, 2005. Transfer issued April 3, 2006.

21050301 and NPDES Permit No. PA0224456. JR Zimmerman Enterprises, LLC (35 Ridge Road, Newville, PA 17241), commencement, operation and restoration of a quarry operation in **North Newton Township, Cumberland County** affecting 33.31 acres. Receiving stream: UNT of Green Spring Creek. Application received February 17, 2005. Permit issued April 4, 2006.

6276SM4C4 and NPDES Permit No. PA0613143. Martin Limestone, Inc. (P. O. Box 550, Blue Ball, PA 17506), renewal of NPDES Permit for discharge of treated mine drainage from a quarry operation in **Honey Brook and Caernarvon Townships, Chester and Lackawanna Counties**. Receiving stream: West Branch Brandywine Creek. Application received February 17, 2006. Renewal issued April 7, 2006.

ACTIONS ON BLASTING ACTIVITY APPLICATIONS

Actions on applications under the Explosives Acts of 1937 and 1957 (73 P.S. §§ 151–161) and 25 Pa. Code § 211.124. Blasting activity performed as part of a coal or noncoal mining activity will be regulated by the mining permit for that coal or noncoal mining activity.

Greensburg District Mining Office: Armbrust Professional Center, 8205 Route 819, Greensburg, PA 15601, (724) 925-5500.

02064004. Chambers Development (600 Thomas St., Monroeville, PA 15146). Blasting activity permit at the Monroeville Landfill cells, located in Monroeville Township, **Allegheny County**, with an expected duration of one year. Permit issued: April 3, 2006.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118.

06064105. Keystone Blasting Service (381 Reifsnyder Road, Lititz, PA 17543), construction blasting for Stonecroft Village in **Marion Township, Berks County** with an expiration date of December 30, 2007. Permit issued April 3, 2006.

06064106. Austin Powder Company (25800 Science Park Drive, Cleveland, OH 44122), construction blasting for The Reserves at Springtown in **Spring Township, Berks County** with an expiration date of March 25, 2007. Permit issued April 3, 2006.

36064133. Keystone Blasting Service (381 Reifsnyder Road, Lititz, PA 17543), construction blasting for Lansdale Development in **Manheim Township, Lancaster County** with an expiration date of December 31, 2007. Permit issued April 3, 2006.

45064126. Silver Valley Drilling & Blasting, Inc. (R. R. 4, Box 4196, Saylorsburg, PA 18353), construction blasting for a home in **Pocono Township, Monroe County** with an expiration date of April 1, 2007. Permit issued April 4, 2006.

46064111. Eastern Blasting Co., Inc. (1292 Street Road, New Hope, PA 18938), construction blasting for Souderton Area High School in **Franconia Township, Montgomery County** with an expiration date of April 30, 2007. Permit issued April 4, 2006.

45064127. Holbert Explosives, Inc. (237 Mast Hope Plank Road, Lackawaxen, PA 18435), construction blasting for Timber Hill in **Price Township, Monroe County** with an expiration date of April 6, 2007. Permit issued April 5, 2006.

48064109. American Rock Mechanics, Inc. (7531 Chestnut Street, Zionsville, PA 18092), construction blasting for Modern Concrete Precast Plant in **Forks Township, Northampton County** with an expiration date of December 31, 2006. Permit issued April 5, 2006.

01064106. Warren's Excavating & Drilling, Inc. (P. O. Box 189, Bowmansville, PA 17507), construction blasting for Cedar Ridge in **Hamilton Township, Adams County** with an expiration date of March 23, 2007. Permit issued April 6, 2006.

15064108. Warren's Excavating & Drilling, Inc. (P. O. Box 189, Bowmansville, PA 17507), construction blasting for Willistown Township Sewer System in **Willistown Township, Chester County** with an expiration date of March 31, 2007. Permit issued April 6, 2006.

36064132. Hall Explosives, Inc. (2981 Elizabethtown Road, Hershey, PA 17033), construction blasting for Hampden Development in **Elizabethtown Township, Lancaster County** with an expiration date of March 31, 2007. Permit issued April 6, 2006.

36064134. Keystone Blasting Service (381 Reifsnyder Road, Lititz, PA 17543), construction blasting for Southern Village Phase 1 in **Lancaster Township, Lancaster County** with an expiration date of December 30, 2007. Permit issued April 6, 2006.

36064135. Gerlach's Drilling & Blasting (172 Bender Mill Road, Lancaster, PA 17603), construction blasting for Fawn Hill Estates in **Manor Township, Lancaster County** with an expiration date of December 31, 2006. Permit issued April 6, 2006.

36014136. Hall Explosives, Inc. (2981 Elizabethtown Road, Hershey, PA 17033), construction blasting for Lakeview County Estates in **Mt. Joy Township, Lancaster County** with an expiration date of April 30, 2007. Permit issued April 6, 2006.

67064113. Warren's Excavating & Drilling, Inc. (P. O. Box 189, Bowmansville, PA 17507), construction blasting for Friendship Estates in Warrington Township, **York County** with an expiration date of March 23, 2007. Permit issued April 6, 2006.

22064002. J. Roy's, Inc. (Box 125, Bowmansville, PA 17507), construction blasting for Victoria Abby Subdivision in Lower Paxton Township, **Dauphin County** with an expiration date of March 31, 2007. Permit issued April 7, 2006.

48064003. J. Roy's, Inc. (Box 125, Bowmansville, PA 17507), construction blasting at Bangor Landfill (new liner) in Bangor Borough, **Northampton County** with an expiration date of April 15, 2007. Permit issued April 7, 2006.

21064123. Newville Construction Services, Inc. (408 Mohawk Road, Newville, PA 17241), construction blasting for Turkey Hill in Shippensburg Borough, **Cumberland County** with an expiration date of April 1, 2007. Permit issued April 7, 2006.

21064124. Newville Construction Services, Inc. (408 Mohawk Road, Newville, PA 17241), construction blasting for a single dwelling in Penn Township, **Cumberland County** with an expiration date of April 1, 2007. Permit issued April 7, 2006.

21064125. Hall Explosives, Inc. (2981 Elizabethtown Road, Hershey, PA 17033), construction blasting for Walnut Point in Silver Spring Township, **Cumberland County** with an expiration date of April 30, 2007. Permit issued April 7, 2006.

21064126. R & M Excavating (403 Hilltop Road, Newburg, PA 17240), construction blasting for JLG Industries parking lot in Southampton Township, **Cumberland County** with an expiration date of August 5, 2006. Permit issued April 7, 2006.

67064115. John W. Gleim, Jr., Inc. (625 Hamilton Street, Carlisle, PA 17013), construction blasting for Windy Heights in Carroll Township, **York County** with an expiration date of December 15, 2006. Permit issued April 7, 2006.

FEDERAL WATER POLLUTION CONTROL ACT SECTION 401

The Department of Environmental Protection (Department) has taken the following actions on previously received permit applications, requests for Environmental Assessment approval and requests for Water Quality Certification under section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341).

Except as otherwise noted, the Department has granted 401 Water Quality Certification certifying that the construction and operation described will comply with the applicable provisions of sections 301-303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) and that the construction will not violate applicable Federal and State water quality standards.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board

within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

Actions on applications for the following activities filed under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27), section 302 of the Flood Plain Management Act (32 P. S. § 679.302) and The Clean Streams Law (35 §§ 691.1—691.702) and Notice of Final Action for Certification under section 401 of the FWPCA (33 U.S.C.A. § 1341).

Permits, Environmental Assessments and 401 Water Quality Certifications Issued

WATER OBSTRUCTIONS AND ENCROACHMENTS

Southeast Region: Water Management Program Manager, 2 East Main Street, Norristown, PA 19401.

E46-980. Department of Transportation, District 6-0, 7000 Geerdes Boulevard, King of Prussia, PA 19406, Upper Providence Township, **Montgomery County**, ACOE Philadelphia District.

To widen SR 29 (SR 0029) and perform improvements along the route commencing at the eastbound SR 422 (SR 0422) interchange running north on SR 29 and terminating near the intersection of SR 29 and Mennonite Road. Proposed water obstruction and encroachment activities are as follows:

1. To extend and maintain a 30-inch diameter RCP enclosure which carries a UNT to Doe Run (TSF) under SR 29. Length of extension is approximately 44 feet making the total length of the culvert 164 feet. Minor fill will be placed within the floodway to facilitate this extension.

2. To place and maintain fill within approximately 0.061 acre of wetland for roadway widening and for wetland mitigation on the western side of SR 29 to facilitate this extension.

The project will permanently impact approximately 45 linear feet of stream and 0.061 acre of wetland. The applicant proposes 0.158 acre of replacement wetlands. The project impact locations are situated near the SR 422 interchange with Colledgeville Road/SR 29 in Upper Providence Township, Montgomery County (Colledgeville, PA, Quadrangle N: 9.96 inches; W: 14.78 inches).

The issuance of this permit also constitutes approval of a Water Quality Certification under section 401(a) of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).

Northeast Region: Watershed Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

E35-393. Burton L. Mott, 405 Cortez Road, Lake Ariel, PA 18436. Jefferson Township, **Lackawanna County**, Army Corps of Engineers Philadelphia District.

To construct and maintain an excavated 0.3-acre pond having a depth of approximately 10-feet in the floodway of a tributary to the West Branch Wallenpaupack Creek (HQ-CWF). The project is located on the east side of Cortez Road approximately 0.4 mile north of its intersection with SR 0348 (Lake Ariel, PA Quadrangle N: 7.8 inches; W: 15.6 inches) (Subbasin: 01C).

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701, (570) 327-3636.

E41-556. Loyalsock Township, 2501 East Third Street, Williamsport, PA 17701. Small Projects Water Obstruction and Encroachment Joint Permit, in Loyalsock Township, **Lycoming County**, ACOE Susquehanna River Basin District (Montoursville South, PA Quadrangle N: 22.23 inches; W: 7.95 inches).

To construct and maintain 750 linear feet of an 8-foot wide asphalt bikeway in the floodway of Miller's Run, all of which is located between the SR 2029 and SR 2014 bridge in Loyalsock Township, Lycoming County. This project does not propose to impact any wetlands. This permit was issued under Section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

E41-557. Department of Transportation, Engineering District 3-0, P. O. Box 218 Montoursville, PA 17754-0218. Joint Water Obstruction and Encroachment Permit Issuance for SR 0442 Segment 0030 Little Muncy Creek bridge replacement, in Muncy Creek Township, **Lycoming County**, ACOE Susquehanna River Basin District (Hughesville, PA Quadrangle N: 14.00 inches; W: 16.00 inches).

To remove an existing steel half-thru truss bridge and construct and maintain a single span steel girder, concrete deck bridge having a span of 125.7 feet, with a minimum underclearance of 9 feet on a skew of 70° over Little Muncy Creek located along SR 0442 Segment 0030 Offset 0000, Muncy Creek Township, Lycoming County. This project proposes to have a minimal impact on Little Muncy Creek, which is, designated a CWF and TSF. This project does propose to impact jurisdictional wetlands. This permit also includes 401 Water Quality Certification.

Southwest Region: Watershed Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

E65-886. Department of Transportation, P. O. Box 459, Uniontown, PA 15401. To construct a culvert and fill wetlands in Unity Township, **Westmoreland County**, Pittsburgh ACOE District. (Latrobe, PA Quadrangle N: 6.4 inches; W: 1.6 inches and Latitude: 40° 16' 53"—Longitude: 79° 23' 25"). To maintain an existing 152 LF, 14.0 ft. span, 8.96 ft. vertical clearance concrete arch culvert in Monastery Run (WWF); to construct and maintain a 25 LF, 14.0 ft. span, 8.0 ft. vertical clearance concrete extension and 10 LF apron to the downstream end of the existing culvert; to fill and maintain a total of 0.44 acre of PEM, PSS and PFO wetlands; and to construct a temporary road crossing. Within drainage areas of less than 100 acres the applicant also proposes: to fill and maintain 49 LF of stream to be relocated by a 49 LF, 8 inch culvert; to construct and maintain a 48 LF

downstream extension to a 146 LF, 24-inch diameter culvert; and to fill and maintain 323 LF of stream channel to be relocated by the construction and maintenance of 510 LF of stream channel. This project is associated with the widening and improvements to a section of SR 30 located north and adjacent of the Latrobe Airport and extending from approximately 0.25 mile east of the intersection with Route 981 to approximately 0.75 mile west of the intersection with Route 981 (N: 6.0 inches; W: 4.2 inches and Latitude: 40° 17' 00"—Longitude: 79° 24' 15"). Total proposed impacts are approximately 452 ft. of stream channel and 0.44 acre of wetland. A total of 0.6 acre of PEM and PFO replacement wetlands will be part of the mitigation to be included in the permit associated with the adjoining SR 1045 (St. Vincent Drive) relocation project.

Northwest Region: Watershed Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

E25-697, International Paper, Uniflow Center Room D, 1525 East Lake Road, Erie, PA 16511. Lowville Three Landfill Stream Cleaning, in Venango Township, **Erie County**, ACOE Pittsburgh District (Wattsburg, PA Quadrangle N: 6.3 inches; W: 12.9 inches).

The applicant proposes to remove sediment, vegetation and gravel deposits from a UNT to West Branch French Creek to original stream contours for a length of 985 feet adjacent to the return track of a drag strip to prevent flooding of the return track approximately 2,000 feet NW of the intersection of SR 8 and Jones Road involving: 1) to impact 0.19 acre of PEM/PSS wetland by removing sediment, vegetation and gravel deposits to original stream contours; and 2) to restore 0.19 acre of PEM/PSS wetlands on the International Paper Lowville Landfill Three property. A portion of this project was completed under Emergency Permit EP2505603 issued by the Department on May 19, 2005. The project proposes to impact 0.19 acre of PEM/PSS wetlands and to restore 0.19 acre of PEM/PSS wetlands. The UNT to French Creek is a perennial stream classified as a WWF.

E37-169, Department of Transportation, District 11-0, 45 Thomas Run Road Bridgeville, PA 15107. SR 1012, Section L02, Segment 0140, Offset 1810 Across Slippery Rock Creek, in Slippery Rock Township, **Lawrence County**, ACOE Pittsburgh District (Portersville, PA Quadrangle N: 21.2 inches; W: 8.2 inches).

To remove the existing structure and to construct and maintain a steel multigirder bridge having a clear span of 135 feet and an underclearance of 23.8 feet on a 90° skew across Slippery Rock Creek on SR 1012, Section L02, Segment 0140, Offset 1810 approximately 2.5 miles south of Harlansburg. The project also includes the placement of riprap in the remnants of an adjacent millrace associated with the Kennedy Mill Dam (D37-020) just upstream of the bridge. Slippery Rock Creek is a perennial stream classified as a CWF-TSF.

SPECIAL NOTICES

Environmental Assessment

Northwest Regional Office, Water Supply Management, 230 Chestnut Street, Meadville, PA 16335.

Location: Ridgeway Township Municipal Authority, 164 Ridgeway Drive, Ridgeway, PA 15853.

Description: The Pennsylvania Infrastructure Investment Authority, which administers the Commonwealth's State Revolving Fund, is intended to be the funding

source for this project. Ridgeway Township proposes water system improvements including an extension of the distribution system south along US 219 to Elk Drive and water line replacement in the Montmorenci, Fairview and "lower" Boot Jack areas as well as pumping station, storage and distribution system upgrades. The project includes approximately 43,000 LF of 12-inch and 8-inch diameter water main; 256,000-gallon, 278,000-gallon and 329,000-gallon water storage tanks; two water pumping stations; and appurtenances. The project will add approximately 60 new customers. Total project cost is estimated at \$3.889 million. The Department of Environmental Protection's (Department) review of the project and the information received in the Environmental Report for the project has not identified any significant, adverse environmental impact resulting from this proposal. The Department hereby approves the Environmental Assessment.

[Pa.B. Doc. No. 06-663. Filed for public inspection April 21, 2006, 9:00 a.m.]

Air Quality Technical Advisory Committee Ad-Hoc Subcommittee on Monitoring Technical Workgroup Meeting

The Air Quality Technical Advisory Committee Ad-Hoc Subcommittee on Monitoring Technical Workgroup will hold a meeting from 9:30 a.m. to 2 p.m. on April 26, 2006, in the 14th Floor Conference Room, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA.

The new CEM Data Processing System will be discussed along with the implementation plan for Revision 8 of the Continuous Source Monitoring Manual (manual). A vote on the acceptance of the draft version of the manual (with the exception of Attachment 3) and corresponding applicability determination is scheduled.

Questions concerning this meeting should be directed to Charles J. Zadakis, (717) 772-3944, czadakis@state.pa.us. The agenda and meeting materials will be available through the Public Participation Center on the Department of Environmental Protection's (Department) website at www.depweb.state.pa.us (DEP Keywords: Public Participation, Participate).

Persons with a disability who require accommodations to attend this meeting should contact the Department at (717) 783-7816 or through the Pennsylvania AT&T Relay Services at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

KATHLEEN A. MCGINTY,
Secretary

[Pa.B. Doc. No. 06-664. Filed for public inspection April 21, 2006, 9:00 a.m.]

DEPARTMENT OF HEALTH

Application of About Feet Podiatry for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that About Feet Podiatry has requested an exception to the requirements of 28 Pa. Code § 551.3 (relating to definitions).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request for exception and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons, V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

CALVIN B. JOHNSON, M. D., M.P.H.,
Secretary

[Pa.B. Doc. No. 06-665. Filed for public inspection April 21, 2006, 9:00 a.m.]

Application of About Feet Podiatry for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that About Feet Podiatry has requested an exception to the requirements of 28 Pa. Code § 555.31 (relating to principle).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

The facility is requesting a waiver of the comment period, as set forth in 28 Pa. Code § 51.33(c).

Persons with a disability who wish to obtain a copy of a request for exception and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons, V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

CALVIN B. JOHNSON, M. D., M.P.H.,
Secretary

[Pa.B. Doc. No. 06-666. Filed for public inspection April 21, 2006, 9:00 a.m.]

Application of Ambulatory Surgery Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Ambulatory Surgery Center has requested an exception to the requirements of 28 Pa. Code §§ 553.1, 553.3, 553.4, 553.31(b), 555.3, 555.4, 557, 563 and 559.2.

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request for exception and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons, V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

CALVIN B. JOHNSON, M. D., M.P.H.,
Secretary

[Pa.B. Doc. No. 06-667. Filed for public inspection April 21, 2006, 9:00 a.m.]

Application of Brandywine Valley Endoscopy Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Brandywine Valley Endoscopy Center has requested an exception to the requirements of 28 Pa. Code § 555.31(a) (relating to principle).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

The facility is requesting a waiver of the comment period, as set forth in 28 Pa. Code § 51.33(c).

Persons with a disability who wish to obtain a copy of a request for exception and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons, V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

CALVIN B. JOHNSON, M. D., M.P.H.,
Secretary

[Pa.B. Doc. No. 06-668. Filed for public inspection April 21, 2006, 9:00 a.m.]

Application of The Endoscopy Center of Delaware County for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that The Endoscopy Center of Delaware County has requested an exception to the requirements of 28 Pa. Code § 555.31 (relating to principle).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

The facility is requesting a waiver of the comment period, as set forth in 28 Pa. Code § 51.33(c).

Persons with a disability who wish to obtain a copy of a request for exception and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons, V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

CALVIN B. JOHNSON, M. D., M.P.H.,
Secretary

[Pa.B. Doc. No. 06-669. Filed for public inspection April 21, 2006, 9:00 a.m.]

Application of Gastrointestinal Specialist, Inc. for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Gastrointestinal Specialist, Inc. has requested an exception to the requirements of 28 Pa. Code § 551.3 (relating to definitions).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request for exception and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons, V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

CALVIN B. JOHNSON, M. D., M.P.H.,
Secretary

[Pa.B. Doc. No. 06-670. Filed for public inspection April 21, 2006, 9:00 a.m.]

Application of Gastrointestinal Specialist, Inc. for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Gastrointestinal, Specialist Inc. has requested an exception to the requirements of 28 Pa. Code § 555.31 (relating to principle).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

The facility is requesting a waiver of the comment period, as set forth in 28 Pa. Code § 51.33(c).

Persons with a disability who wish to obtain a copy of a request for exception and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons, V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

CALVIN B. JOHNSON, M. D., M.P.H.,
Secretary

[Pa.B. Doc. No. 06-671. Filed for public inspection April 21, 2006, 9:00 a.m.]

Application of Lebanon Outpatient Surgical Center, LP for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Lebanon Outpatient Surgical Center, LP has requested an exception to the requirements of 28 Pa. Code § 551.21(d)(2) (relating to criteria for ambulatory surgery).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

The facility is requesting a waiver of the comment period, as set forth in 28 Pa. Code § 51.33(c).

Persons with a disability who wish to obtain a copy of a request for exception and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons, V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

CALVIN B. JOHNSON, M. D., M.P.H.,
Secretary

[Pa.B. Doc. No. 06-672. Filed for public inspection April 21, 2006, 9:00 a.m.]

Application of Manoa Diagnostic Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Manoa Diagnostic Center has requested an exception to the requirements of 28 Pa. Code § 553.31 (relating to administrative responsibilities).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of

Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request for exception and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons, V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

CALVIN B. JOHNSON, M. D., M.P.H.,
Secretary

[Pa.B. Doc. No. 06-673. Filed for public inspection April 21, 2006, 9:00 a.m.]

Application of SCCI Hospital—Easton for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that SCCI Hospital—Easton has requested an exception to the requirements of 28 Pa. Code § 153.1 (relating to minimum standards), which requires compliance with minimum standards contained in *Guidelines for Design and Construction of Hospital and Healthcare Facilities*. The facility specifically requests exception from the following standard contained in this publication: 7.2.B19 (relating to showers and tubs).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, ra-paexcept@state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980 or for speech and/or hearing impaired persons, V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

CALVIN B. JOHNSON, M. D., M.P.H.,
Secretary

[Pa.B. Doc. No. 06-674. Filed for public inspection April 21, 2006, 9:00 a.m.]

Application of Valley Ambulatory Surgical Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Valley Ambulatory Surgical Center has requested an exception to the requirements of 28 Pa. Code § 571.1 (relating to minimum standards), which requires compliance with minimum standards contained in *Guidelines for Design and Construction of Hospital and Healthcare Facilities*. The facility specifically requests exemption from the following standard contained in this publication: 9.5.Fd (relating to Class C operating room).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request for exception and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons, V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

CALVIN B. JOHNSON, M. D., M.P.H.,
Secretary

[Pa.B. Doc. No. 06-675. Filed for public inspection April 21, 2006, 9:00 a.m.]

Integrated Human Immunodeficiency Virus (HIV) Planning Council; Public Meeting

The Statewide Integrated HIV Planning Council, established by the Department of Health (Department) under sections 301(a) and 317(b) of the Public Health Service Act (42 U.S.C.A. §§ 241(a) and 247(b)), will hold a public meeting on Tuesday, May 9, 2006, from 10:30 a.m. to 3 p.m. at the Harrisburg Holiday Inn West, 5401 Carlisle Pike, Mechanicsburg, PA 17050.

For additional information contact Joseph Pease, Department of Health, Bureau of Communicable Diseases, Room 1010, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-0572.

Persons with a disability who wish to attend the meeting and require an auxiliary aid, service or other accommodation to do so should also contact Joseph Pease at (717) 783-0572 or at V/TT (717) 783-6514 for speech and/or hearing impaired persons or the Pennsylvania AT&T Relay Services at (800) 654-5984 (TT).

The Department reserves the right to cancel this meeting without prior notice.

CALVIN B. JOHNSON, M. D., M.P.H.,
Secretary

[Pa.B. Doc. No. 06-676. Filed for public inspection April 21, 2006, 9:00 a.m.]

Update of the List of Citations to ACIP Recommendations Prescribing Child Immunization Practices and Immunizing Agents and Doses

In accordance with 31 Pa. Code §§ 89.806(a) and 89.807(b) (relating to coverage of child immunizations; and immunizing agents, doses and AWP's), the Department of Health, Bureau of Communicable Diseases, Division of Immunization (Department) is updating 31 Pa. Code Chapter 89, Appendices G and H (relating to ACIP recommendations prescribing child immunization practices; and immunizing agents and doses). The Department has primary responsibility for the interpretation and the implementation of 31 Pa. Code §§ 89.806 and 89.807. See 31 Pa. Code § 89.801(b) (relating to authority and purpose; implementation).

Health insurance policies are required by the Childhood Immunization Insurance Act (act) (40 P.S. §§ 3501—3508) and regulations promulgated thereunder, 31 Pa. Code Chapter 809, Subchapter L (relating to childhood immunization insurance), to include coverage for certain childhood immunizations, unless the policies are exempted by the act and 31 Pa. Code § 89.809 (relating to exempt policies). The childhood immunizations covered are those that meet Advisory Committee on Immunization Practices (ACIP) standards in effect on May 21, 1992 (see 31 Pa. Code § 89.806(a)). A list of the Morbidity and Mortality Weekly Report (MMWR) publications containing ACIP recommendations issued under the ACIP standards in effect on May 21, 1992 appears in 31 Pa. Code Chapter 89, Appendix G.

The Department is required to update the list of these MMWR publications in 31 Pa. Code Chapter 89, Appendix G. See 31 Pa. Code § 89.806(a). The additions to the list are as follows. The remainder of the list in 31 Pa. Code Chapter 89, Appendix G remains in full force and effect:

The Department is required to update the list of these MMWR publications in 31 Pa. Code Chapter 89, Appendix G. See 31 Pa. Code § 89.806(a). The additions to the list are as follows. The remainder of the list in 31 Pa. Code Chapter 89, Appendix G remains in full force and effect:

September 2, 2005/Vol. 54/No. 34

- Update: Influenza Vaccine Supply and Recommendations for Prioritization During the 2005-06 Influenza Season

September 16, 2005/Vol. 54/No. 36

- Direct and Indirect Effects of Routine Vaccination of Children with 7-Valent Pneumococcal Conjugate Vaccine on Incidence of Invasive Pneumococcal Disease—United States, 1998-2003

- Update: Influenza Activity—United States and Worldwide, May 22—September 3, 2005, and 2005-06 Season Vaccination Recommendations

October 14, 2005/Vol. 54/No. 40

- Guillain-Barré Syndrome Among Recipients of Menactra® Meningococcal Conjugate Vaccine—United States, June—July 2005

- Notice To Readers: FDA Approval of VAQTA® (Hepatitis A Vaccine, Inactivated) for Children Aged > 1 Year

- QuickStats: Rate of Hospitalizations for Pertussis Among Infants Aged < 6 Months—United States, 1994-1998 and 1999-2003

December 2, 2005/Vol. 54/No. 47

- Notice to Readers: Licensure of a Combined Live Attenuated Measles, Mumps, Rubella, and Varicella Vaccine

February 3, 2006/Vol. 55/No. 4

- Childhood Influenza Vaccination Coverage—United States, 2003-04 Influenza Season

January 6, 2006/Vol. 54/Nos. 51 and 52

- MMWR QuickGuide Recommended Childhood and Adolescent Immunization Schedule—United States, 2006

The Department is also required to update information relating to immunizing agents and doses that the Department has extracted from ACIP recommendations issued under the standards in 31 Pa. Code § 89.806(a). See 31 Pa. Code § 89.807(b). The Department is also to periodically list the average wholesale price (AWP) for immunizing agents. Id. This information currently appears in 31 Pa. Code Chapter 89, Appendix H. The updated information is as follows:

2006 List of Immunizing Agents and Average Wholesale Prices

Product Name, Company	Brand/Product Name	NDC Number	Unit	Dose	AWP/ Dose*
<i>Diphtheria Tetanus acellular Pertussis Vaccine (DTaP):</i>					
sanofi pasteur	Tripedia	49281-0298-10	10 × 1	0.5 ml	\$26.18
sanofi pasteur	Daptacel	49281-0286-10	10 × 1	0.5 ml	\$26.00
GlaxoSmithKline	Infanrix	58160-0840-11	10 × 1	0.5 ml	\$24.70
GlaxoSmithKline	Infanrix	58160-0840-46	5 × 0.5	0.5 ml	\$25.28
<i>Tetanus Diphtheria acellular Pertussis Vaccine (Tdap):</i>					
sanofi pasteur	Adacel	49261-0400-10	10 × 1	0.5 ml	\$42.45
GlaxoSmithKline	Boosterix	58160-0842-11	10 × 1	0.5 ml	\$41.85
GlaxoSmithKline	Boosterix	58160-0842-46	5 × 1	0.5 ml	\$41.85
<i>Diphtheria Tetanus pediatric Vaccine (DT pediatric):</i>					
sanofi pasteur	DT Pediatric	49281-0275-10	5.0 ml	0.5 ml	\$21.96
<i>Diphtheria Tetanus acellular Pertussis/Haemophilus Influenzae B (DTaP-HIB)</i>					
sanofi pasteur	TriHIBit	49281-0597-05	5 × 1	0.5 ml	\$51.40
<i>Tetanus Diphtheria adult Vaccine (Td adult):</i>					
sanofi pasteur	(1) Td Adult	49281-0271-83	5.0 ml	0.5 ml	\$22.70
sanofi pasteur	(2) Decavac	49281-0291-10	10 × 1	0.5 ml	\$21.66
<i>Diphtheria, Tetanus, acellular Pertussis, Hepatitis B, Polio (DTaP, Hep B, OPV)</i>					
GlaxoSmithKline	Pediarix	58160-0841-11	10 × 1	0.5 ml	\$84.11
GlaxoSmithKline	Pediarix	58160-0841-46	5 × 1	0.5 ml	\$84.12
<i>Tetanus Toxoid</i>					
sanofi pasteur	Tetanus toxoid	49281-0820-10	10 × 5	0.5 ml	\$22.17
<i>Haemophilus Influenzae B Vaccine (HIB):</i>					
Wyeth Pharmaceuticals	HibTITER	0005-0104-32	5 × 0.5	0.5 ml	\$25.54
Wyeth Pharmaceuticals	HibTITER	0005-0104-10	10 × 1	100 mcg	\$25.68
sanofi pasteur	ActHIB	49281-0545-05	5 × 1	0.5 ml	\$27.04
Merck & Co.	Pedvax HIB	0006-4897-00	10 × 0.5	0.5 ml	\$27.17
<i>Injectable Polio Vaccine Inactivated (Salk Enhanced IPV):</i>					
sanofi pasteur	IPOL	49281-0860-10	10 × 5	0.5 ml	\$27.35
sanofi pasteur	IPOL	49281-0860-55	10 × 5	0.5 ml	\$31.45
<i>Measles Mumps Rubella Vaccine (MMR):</i>					
Merck & Co.	MMR II	0006-4749-00	0.5 ml	0.5 ml	\$44.72
Merck & Co.	MMR II	0006-4681-00	10 × 0.5	0.5 ml	\$48.00
<i>Measles Vaccine (Rubeola):</i>					
Merck & Co.	Atenuvax	0006-4709-00	0.5 ml	0.5 ml	\$17.73
Merck & Co.	Atenuvax	0006-4589-00	10 × 0.5	0.5 ml	\$17.73

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<i>Product Name, Company</i>	<i>Brand/Product Name</i>	<i>NDC Number</i>	<i>Unit</i>	<i>Dose</i>	<i>AWP/ Dose*</i>
<i>Meningococcal Vaccine (MCV4):</i>					
sanofi pasteur	Menactra	49281-0589-01	0.5 ml	0.5 ml	\$98.40
sanofi pasteur	Menactra	49281-0589-05	5 × 1	0.5 ml	\$98.40
<i>Mumps Vaccine (Mumps):</i>					
Merck & Co.	Mumpsvax	0006-4753-00	0.5 ml	0.5 ml	\$20.45
Merck & Co.	Mumpsvax	0006-4584-00	10 × 0.5	0.5 ml	\$22.95
<i>Rubella (German Measles):</i>					
Merck & Co.	Meruvax II	0006-4747-00	0.5 ml	0.5 ml	\$18.57
Merck & Co.	Meruvax II	0006-4673-00	10 × 0.5	0.5 ml	\$19.76
<i>Hepatitis A Vaccine Pediatric (HEP-A):</i>					
Merck & Co.	VAQTA	0006-4831-00	0.5 ml	0.5 ml	\$34.56
Merck & Co.	VAQTA	0006-4831-41	10 × 0.5	0.5 ml	\$32.66
Merck & Co.	VAQTA syringe	0006-4845-00	0.5 ml	0.5 ml	\$35.30
Merck & Co.	VAQTA syringe	0006-4845-38	5 × 0.5	0.5 ml	\$33.31
GlaxoSmithKline	Havrix	58160-0837-01	0.5 ml	0.5 ml	\$30.11
GlaxoSmithKline	Havrix	58160-0837-11	10 × 0.5	0.5 ml	\$28.79
GlaxoSmithKline	Havrix syringe	58160-0837-50	25 × 0.5	0.5 ml	\$28.79
GlaxoSmithKline	Havrix syringe	58160-0837-46	5 × 0.5	0.5 ml	\$28.79
<i>Hepatitis A Vaccine Adult (HEP-A):</i>					
Merck & Co.	VAQTA	0006-4841-00	1.0 ml	1.0 ml	\$76.06
Merck & Co.	VAQTA	0006-4841-38	5 × 1.0	1.0 ml	\$66.64
Merck & Co.	VAQTA	0006-4841-41	10 × 1.0	1.0 ml	\$71.93
Merck & Co.	VAQTA syringe	0006-4844-00	1.0 ml	1.0 ml	\$70.60
Merck & Co.	VAQTA syringe	0006-4844-38	5 × 1.0	1.0 ml	\$66.64
Merck & Co.	VAQTA pediatric	0006-4831-00	1 × 5	0.5 ml	\$38.41
Merck & Co.	VAQTA pediatric	0006-4831-41	10 × 5	0.5 ml	\$36.29
GlaxoSmithKline	Havrix	58160-0835-01	1.0 ml	1.0 ml	\$66.50
GlaxoSmithKline	Havrix	58160-0835-41	1.0 ml	1.0 ml	\$65.08
GlaxoSmithKline	Havrix syringe	58160-0835-46	5 × 1	1.0 ml	\$65.08
<i>Hepatitis B Vaccine (HEP-B):</i>					
Merck & Co.	(1) Recombivax HB	00006-4980-00	0.5 ml	0.5 ml	\$27.26
Merck & Co.	(1) Recombivax HB	00006-4981-00	10 × 0.5 ml	0.5 ml	\$25.93
Merck & Co.	(3a,b) Recombivax HB	00006-4995-00	1.0 ml	1.0 ml	\$33.49
Merck & Co.	(3a,b) Recombivax HB	00006-4995-41	10 × 1.0	1.0 ml	\$33.15
Merck & Co.	(3c) Recombivax HB	00006-4992-00	1.0 ml	1.0 ml	\$93.31
GlaxoSmithKline	(4) Engerix-B pediatric	58160-0856-01	0.5 ml	0.5 ml	\$25.64
GlaxoSmithKline	(4) Engerix-B	58160-0856-11	10 × 0.5	0.5 ml	\$25.64
GlaxoSmithKline	(4) Engerix-B syringe	58160-0856-46	5 × 0.5	0.5 ml	\$25.64
GlaxoSmithKline	(4) Engerix-B syringe	58160-0856-35	5 × 0.5	0.5 ml	\$25.64
GlaxoSmithKline	(4) Engerix-B syringe	58160-0856-50	25 × 0.5	0.5 ml	\$23.07
GlaxoSmithKline	(4) Engerix-B syringe	58160-0856-57	25 × 0.5	0.5 ml	\$23.07
GlaxoSmithKline	(5) Engerix-B	58160-0857-01	1.0 ml	1.0 ml	\$61.51
GlaxoSmithKline	(5) Engerix-B syringe	58160-0857-46	5 × 1.0	1.0 ml	\$60.27
GlaxoSmithKline	Engerix-B syringe	58160-0857-16	25 × 1	1.0 ml	\$99.92
GlaxoSmithKline	(5) Engerix-B syringe	58160-0857-50	25 × 1.0	1.0 ml	\$54.24
(1) Pediatric/Adolescent formulation (preservative-free) 5mcg/.5ml					
(3a) Adult formulation (preservative free) 10 mcg/1 ml					
(3b) Two dose regimen for 11 through 15 years of age (preservative free)					
(3c) Dialysis formulation (preservative free) 40mcg/1ml					
<i>Hepatitis B / HIB</i>					
Merck & Co.	COMVAX	0006-4898-00	10 × 0.5	0.5 ml	\$54.07
<i>Hepatitis A & Hepatitis B Vaccine:</i>					
GlaxoSmithKline	Twinrix	58160-0850-01	1.0 ml	1.0 ml	\$84.96
GlaxoSmithKline	Twinrix	58160-0850-11	10 × 1.0	1.0 ml	\$92.89
GlaxoSmithKline	Twinrix syringe	58160-0850-46	5 × 1.0	1.0 ml	\$93.20

<i>Product Name, Company</i>	<i>Brand/Product Name</i>	<i>NDC Number</i>	<i>Unit</i>	<i>Dose</i>	<i>AWP/ Dose*</i>
<i>Influenza Vaccine:</i>					
sanofi pasteur	Fluzone PF	49281-0373-25	10 × 0.5	0.25 ml	\$25.92
sanofi pasteur	Fluzone	49281-0374-11	10 × 1	0.5 ml	\$12.27
sanofi pasteur	Fluzone	49281-0374-15	10 × 1	0.5 ml	\$9.18
MedImmune	Flumist	66019-0101-01	10 × 1	0.5 ml	\$16.20
sanofi pasteur	Fluzone	49281-0005-10	10 × 0.5	0.5 ml	\$16.50
sanofi pasteur	Fluzone	49281-0005-50	10 × 0.5	0.5 ml	\$16.50
sanofi pasteur	Fluzone	49281-0376-15	10 × 0.5	0.5 ml	\$16.50
<i>Pneumococcal Vaccine:</i>					
Wyeth Pharmaceuticals	Prenvar	0005-1970-67	5 × 0.5	0.5 ml	\$82.95
Wyeth Pharmaceuticals	Prenvar	0005-1970-00	10 × 1	0.5 ml	\$170.00
Merck & Co.	Pneumovax 23	0006-4739-00	2.5 ml	0.5 ml	\$142.25
Merck & Co.	Pneumovax 23	0006-4739-50	10 × 2.5 ml	0.5 ml	\$159.65
Merck & Co.	Pneumovax 23	0006-4943-00	10 × 0.5	0.5 ml	\$31.93
Merck & Co.	Pneumovax 23 syringe	0006-4894-00	5 × 0.5	0.5 ml	\$19.30
<i>Varicella Virus Vaccine Live (Chickenpox):</i>					
Merck & Co.	Varivax**	00006-4827-00	10 × 0.5	0.5 ml	\$80.02
Merck & Co.	Varivax**	00006-4826-00	0.5 ml	0.5 ml	\$83.93
**Comes with a box of 10 vials of diluent (package B: 00006-4309-00)					
<i>Measles, Mumps Rubella and Varicella Vaccine</i>					
Merck & Co.	ProQuad***	00006-4999-00	10 × 0.5	0.5 ml	\$140.52
Merck & Co.	ProQuad***	00006-4984-00	0.5 ml	0.5 ml	\$147.30
***Comes with a box of 10 vials of diluent (package B: 00006-4309-00)					

* Indicates the Estimated Acquisition Cost (EAC) as stated in the Department of Public Welfare, Office of Medical Assistance Programs, Medical Assistance Regulations at 55 Pa. Code § 1121.55 (relating to method of payment).

Persons with disability who require an alternative format of this notice (for example, large print, audiotape, Braille), should contact Alice Gray, Director, Department of Health, Division of Immunizations, Room 1026, Health and Welfare Building, Harrisburg, PA 17120, (717) 787-5681 or for speech and/or hearing impaired persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

CALVIN B. JOHNSON, M. D., M.P.H.,
Secretary

[Pa.B. Doc. No. 06-677. Filed for public inspection April 21, 2006, 9:00 a.m.]

DEPARTMENT OF LABOR AND INDUSTRY

Current Prevailing Wage Act Debarments

The following contractors have been determined to have intentionally violated the Pennsylvania Prevailing Wage Act (act) (43 P. S. §§ 165-1—165-17). This notice is published for the information and convenience of public bodies subject to the act. Under section 11(e) of the act (43 P. S. § 165-11(e)), these contractors, or either one of them, or any firms, corporations or partnerships in which either one of these contractors has an interest, shall be awarded no contract for 3 years after the date listed.

<i>Contractor</i>	<i>Address</i>	<i>Date of Debarment</i>
Donovan Phillips. Ltd. and Christian Donovan, individually	3160 Bedminster Road Bedminster, PA 18910	3/9/2006
STEPHEN M. SCHMERIN, Secretary		

[Pa.B. Doc. No. 06-678. Filed for public inspection April 21, 2006, 9:00 a.m.]

DEPARTMENT OF PUBLIC WELFARE

Availability of the Low-Income Home Energy Assistance Program; Proposed State Plan and Public Hearing Schedule

The Department of Public Welfare (Department) is making available for public review and comment the Fiscal Year (FY) 2006-07 Low-Income Home Energy Assistance Program (LIHEAP) proposed State Plan. Comments on this notice and testimony received at public hearings will be used to formulate the Department's final State Plan for using Federal funds in the FY 2006-07 LIHEAP.

The Department has sent advance copies of the proposed State Plan to the LIHEAP Advisory Committee. In addition, copies have been sent to fuel associations, legal service agencies and area agencies on aging for distribution to their members or constituents. Other persons who want copies can obtain them after June 15, 2006, by contacting their local county assistance office or by calling Tammy Heckard at (717) 772-7906.

The Department will hold three public hearings throughout this Commonwealth to allow testimony on the

proposed State Plan and fulfill the Federal mandate for public input into the planning process. This mandate appears in Title XXVI (The Low-Income Home Energy Assistance Act of 1981) of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. No. 97-35, 42 U.S.C.A. §§ 8621—8629) as amended by the Human Services Reauthorization Act of 1984 (Pub. L. No. 98-558), the Human Services Reauthorization Act of 1986 (Pub. L. No. 99-425), the Augustus F. Hawkins Human Services Reauthorization Act of 1990 (Pub. L. No. 101-501), the National Institutes of Health Revitalization Act of 1993 (Pub. L. No. 103-43), the Low-Income Home Energy Assistance Amendments of 1994 (Pub. L. No. 103-252), the Coats Human Services Reauthorization Act of 1998 (Pub. L. No. 105-285) and the Energy Policy Act of 2005 (Pub. L. No. 109-58).

Public Hearing Schedule:

July 6, 2006

10 a.m.—12 p.m.
Allegheny County Courthouse
Gold Room, 4th Floor
436 Grant Street
Pittsburgh, PA

July 13, 2006

10 a.m.—1 p.m.
Philadelphia State Office Building
Rooms 602 and 604, 6th Floor
1400 Spring Garden Street
Philadelphia, PA

July 14, 2006

10 a.m.—12 p.m.
Health and Welfare Building
Room 812, 8th Floor
Commonwealth and Forster Streets
Harrisburg, PA

This notice shall take effect upon publication in the *Pennsylvania Bulletin*.

Persons who wish to testify on the proposed State Plan at a public hearing should arrange a time by telephoning (717) 772-7906 no later than July 3, 2006. Persons from outside the Harrisburg area should call (800) 692-7462 or send a written request, including telephone number, to Tammy Heckard, Federal Programs and Program Management, Room 224, Willow Oak Building No. 42, DPW Complex 2, P. O. Box 2675, Harrisburg, PA 17105.

Persons with a disability who require auxiliary aid or service may submit comments using the AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

ESTELLE B. RICHMAN,
Secretary

[Pa.B. Doc. No. 06-679. Filed for public inspection April 21, 2006, 9:00 a.m.]

DEPARTMENT OF REVENUE

Pennsylvania Emerald Green 7's Instant Lottery Game

Under the State Lottery Law (72 P. S. §§ 3761-101—3761-314) and 61 Pa. Code § 819.203 (relating to notice of

instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

1. *Name:* The name of the game is Pennsylvania Emerald Green 7's.

2. *Price:* The price of a Pennsylvania Emerald Green 7's instant lottery game ticket is \$5.

3. *Play Symbols:* Each Pennsylvania Emerald Green 7's instant lottery game ticket will contain one play area. The play symbols and their captions, printed in black ink, located in the play area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (BKSEV), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVN), 12 (TWLV), 13 (THRTN), 14 (FORTN), 15 (FIFTN), 16 (SIXTN), 17 (SVNTN), 18 (EGHTN), 19 (NINTN), 20 (TWENT), 21 (TWYONE), 22 (TWYTWO), 23 (TWYTHR) and 24 (TWYFOR). The play symbols and their captions, printed in green ink, located in the play area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (GSEV), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVN), 12 (TWLV), 13 (THRTN), 14 (FORTN), 15 (FIFTN), 16 (SIXTN), 17 (SVNTN), 18 (EGHTN), 19 (NINTN), 20 (TWENT), 21 (TWYONE), 22 (TWYTWO), 23 (TWYTHR) and 24 (TWYFOR).

4. *Prize Symbols:* The prize symbols and their captions, located in the 12 "prize" areas are: \$1⁰⁰ (ONE DOL), \$5⁰⁰ (FIV DOL), \$7⁰⁰ (SVN DOL), \$10⁰⁰ (TEN DOL), \$14\$ (FORTN), \$15\$ (FIFTN), \$20\$ (TWENTY), \$35\$ (TRY FIV), \$70\$ (SEVENTY), \$100 (ONE HUN), \$700 (SVN HUN), \$7,000 (SVN THO) and \$70,000 (SVT THO).

5. *Prizes:* The prizes that can be won in this game are: \$1, \$5, \$7, \$10, \$14, \$15, \$20, \$35, \$70, \$100, \$700, \$7,000 and \$70,000. The player can win up to 10 times on the ticket.

6. *Approximate Number of Tickets Printed for the Game:* Approximately 6,000,000 tickets will be printed for the Pennsylvania Emerald Green 7's instant lottery game.

7. *Determination of Prize Winners:*

(a) Holders of tickets with a play symbol of 7 (BKSEV), with the symbol and caption printed in black ink, and a prize symbol of \$70,000 (SVT THO) appearing in the "prize" area to the right of that black 7 (BKSEV) play symbol, on a single ticket, shall be entitled to a prize of \$70,000.

(b) Holders of tickets with a play symbol of 7 (BKSEV), with the symbol and caption printed in black ink, and a prize symbol of \$7,000 (SVN THO) appearing in the "prize" area to the right of that 7 (BKSEV) play symbol, on a single ticket, shall be entitled to a prize of \$7,000.

(c) Holders of tickets with a play symbol of 7 (BKSEV), with the symbol and caption printed in black ink, and a prize symbol of \$700 (SVN HUN) appearing in the "prize" area to the right of that 7 (BKSEV) play symbol, on a single ticket, shall be entitled to a prize of \$700.

(d) Holders of tickets with a play symbol of 7 (GSEV), with the symbol and caption printed in green ink, and a prize symbol of \$100 (ONE HUN) appearing in the "prize" area to the right of that 7 (GSEV) play symbol, on a single ticket, shall be entitled to a prize of \$700.

(e) Holders of tickets with a play symbol of 7 (BKSEV), with the symbol and caption printed in black ink, and a prize symbol of \$100 (ONE HUN) appearing in the "prize" area to the right of that 7 (BKSEV) play symbol, on a single ticket, shall be entitled to a prize of \$100.

(f) Holders of tickets with a play symbol of 7 (GSEV), with the symbol and caption printed in green ink, and a prize symbol of \$10.⁰⁰ (TEN DOL) appearing in the "prize" area to the right of that 7 (GSEV) play symbol, on a single ticket, shall be entitled to a prize of \$70.

(g) Holders of tickets with a play symbol of 7 (BKSEV), with the symbol and caption printed in black ink, and a prize symbol of \$70\$ (SEVENTY) appearing in the "prize" area to the right of that 7 (BKSEV) play symbol, on a single ticket, shall be entitled to a prize of \$70.

(h) Holders of tickets with a play symbol of 7 (BKSEV), with the symbol and caption printed in black ink, and a prize symbol of \$35\$ (TRY FIV) appearing in the "prize" area to the right of that 7 (BKSEV) play symbol, on a single ticket, shall be entitled to a prize of \$35.

(i) Holders of tickets with a play symbol of 7 (GSEV), with the symbol and caption printed in green ink, and a prize symbol of \$5.⁰⁰ (FIV DOL) appearing in the "prize" area to the right of that 7 (GSEV) play symbol, on a single ticket, shall be entitled to a prize of \$35.

(j) Holders of tickets with a play symbol of 7 (BKSEV), with the symbol and caption printed in black ink, and a prize symbol of \$20\$ (TWENTY) appearing in the "prize" area to the right of that 7 (BKSEV) play symbol, on a single ticket, shall be entitled to a prize of \$20.

(k) Holders of tickets with a play symbol of 7 (BKSEV), with the symbol and caption printed in black ink, and a prize symbol of \$15\$ (FIFTN) appearing in the "prize" area to the right of that 7 (BKSEV) play symbol, on a single ticket, shall be entitled to a prize of \$15.

(l) Holders of tickets with a play symbol of 7 (BKSEV), with the symbol and caption printed in black ink, and a prize symbol of \$14\$ (FORTN) appearing in the "prize" area to the right of that 7 (BKSEV) play symbol, on a single ticket, shall be entitled to a prize of \$14.

(m) Holders of tickets with a play symbol of 7 (BKSEV), with the symbol and caption printed in black ink, and a prize symbol of \$10.⁰⁰ (TEN DOL) appearing in the "prize" area to the right of that 7 (BKSEV) play symbol, on a single ticket, shall be entitled to a prize of \$10.

(n) Holders of tickets with a play symbol of 7 (GSEV), with the symbol and caption printed in green ink, and a prize symbol of \$1.⁰⁰ (ONE DOL) appearing in the "prize" area to the right of that 7 (GSEV) play symbol, on a single ticket, shall be entitled to a prize of \$7.

(o) Holders of tickets with a play symbol of 7 (BKSEV), with the symbol and caption printed in black ink, and a prize symbol of \$7.⁰⁰ (SVN DOL) appearing in the "prize" area to the right of that 7 (BKSEV) play symbol, on a single ticket, shall be entitled to a prize of \$7.

(p) Holders of tickets with a play symbol of 7 (BKSEV), with the symbol and caption printed in black ink, and a prize symbol of \$5.⁰⁰ (FIV DOL) appearing in the "prize" area to the right of that 7 (BKSEV) play symbol, on a single ticket, shall be entitled to a prize of \$5.

8. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes and approximate odds of winning:

<i>Find A Black "7" Win With Prize(s) of:</i>	<i>Win:</i>	<i>Approximate Odds of 1 In:</i>	<i>Approximate No. of Winners Per 6,000,000 Tickets</i>
\$5	\$5	10.17	590,000
\$7	\$7	40	150,000
\$1 w/GREEN 7	\$7	40	150,000
\$5 × 2	\$10	60	100,000
\$10	\$10	60	100,000
\$14	\$14	600	10,000
\$7 × 2	\$14	600	10,000
\$1 w/GREEN 7 + \$7	\$14	200	30,000
\$5 × 3	\$15	600	10,000
\$10 + \$5	\$15	600	10,000
\$15	\$15	200	30,000
\$20	\$20	150	40,000
\$5 × 4	\$20	200	30,000
\$10 × 2	\$20	200	30,000
\$35	\$35	600	10,000
\$5 × 7	\$35	600	10,000
\$7 × 5	\$35	600	10,000
\$5 w/GREEN 7	\$35	300	20,000
\$70	\$70	300	20,000
\$7 × 10	\$70	300	20,000
\$10 × 7	\$70	300	20,000
\$35 × 2	\$70	300	20,000
\$10 w/GREEN 7	\$70	300	20,000
\$100	\$100	6,000	1,000
\$10 × 10	\$100	6,000	1,000
\$20 × 5	\$100	6,000	1,000
\$10 w/GREEN 7 + \$10 × 3	\$100	6,000	1,000
\$10 w/GREEN 7 + \$15 × 2	\$100	6,000	1,000
\$700	\$700	24,000	250

<i>Find A Black "7" Win With Prize(s) of:</i>	<i>Win:</i>	<i>Approximate Odds of 1 In:</i>	<i>Approximate No. of Winners Per 6,000,000 Tickets</i>
\$100 w/GREEN 7	\$700	24,000	250
\$7,000	\$7,000	240,000	25
\$70,000	\$70,000	600,000	10

GREEN 7 (GSEV) = Win 7 times the prize shown.

Prizes, including top prizes, are subject to availability at the time of purchase.

9. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania Emerald Green 7's instant lottery game tickets. The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentives).

10. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania Emerald Green 7's, prize money from winning Pennsylvania Emerald Green 7's instant lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto. If no claim is made within 1 year of the announced close of the Pennsylvania Emerald Green 7's instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

11. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law, 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

12. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Pennsylvania Emerald Green 7's or through normal communications methods.

GREGORY C. FAJT,
Secretary

[Pa.B. Doc. No. 06-680. Filed for public inspection April 21, 2006, 9:00 a.m.]

Pennsylvania Millionaire Raffle II Lottery Game

Under the State Lottery Law (72 P. S. §§ 3761-101—3761-314) and 61 Pa. Code § 874.4 (relating to notice of raffle lottery game rules), the Secretary of Revenue hereby provides public notice of the rules for the following raffle lottery game:

1. *Name:* The name of the raffle game is Pennsylvania Millionaire Raffle II.

2. *Price:* The price of a Pennsylvania Millionaire Raffle II lottery game ticket is \$20.

3. *Ticket Sales and Drawing Date:* Pennsylvania Millionaire Raffle II lottery game tickets sales will commence on or after May 23, 2006, and will continue until all six-hundred-twenty-five-thousand tickets have been sold, or 5:00 p.m. on July 4, 2006, whichever occurs earlier.

4. *Ticket Characteristics:* Each Pennsylvania Millionaire Raffle II lottery game ticket will contain one unique eight-digit number between 00000001 and 00625000, for a total of six-hundred-twenty-five-thousand tickets.

5. *Prizes:* The prizes that can be won in this game are \$1,000, \$100,000 and \$1,000,000. A player may only win one time on each ticket or chance.

6. *Maximum Number of Tickets Printed and Sold for the Game:* There will be no more than six-hundred-twenty-five-thousand tickets printed and sold for the Pennsylvania Millionaire Raffle II lottery game. The chances will be sequentially issued on a statewide basis from the range of individual unique numbers representing the chances available for the game.

7. *Conduct of Drawing:* The results of the Pennsylvania Millionaire Raffle II will be televised on July 4, 2006, at or about 7:00 p.m. The drawing will be conducted with the aid of an electronic device. Seven-hundred sixty (760) unique eight-digit numbers will be drawn, between 00000001 and 00625000. The first five unique eight-digit numbers drawn will be the first-prize-tier winning numbers. The sixth through tenth unique eight-digit numbers drawn will be the second-prize-tier winning numbers. The eleventh through 760th unique eight-digit numbers drawn will be the third-prize-tier winning numbers.

8. Determination of Prize Winners:

(a) Holders of tickets upon which the unique eight-digit number matches exactly one of the first-prize-tier numbers selected by the Lottery shall be entitled to a prize of \$1,000,000.

(b) Holders of tickets upon which the unique eight-digit number matches exactly one of the second-prize-tier numbers selected by the Lottery shall be entitled to a prize of \$100,000.

(c) Holders of tickets upon which the unique eight-digit number matches exactly one of the third-prize-tier numbers selected by the Lottery shall be entitled to a prize of \$1,000.

9. *Number and Description of Prizes and Approximate Odds:* The Pennsylvania Millionaire Raffle II prizes and determination winners are as follows:

Ticket Matching Exactly the Unique Eight-digit Number Drawn in:

	<i>Win Prize of:</i>	<i>Maximum Odds of Winning 1 in</i>	<i>Number of Winners</i>
First-Prize-Tier	\$1,000,000	125,000	5
Second-Prize-Tier	\$100,000	125,000	5
Third-Prize-Tier	\$1,000	833	750

All Pennsylvania Millionaire Raffle II lottery game prize payments, including first-prize-tier prizes, will be made as one-time lump-sum cash payments.

10. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Program for retailers who sell Pennsylvania Millionaire Raffle II lottery game tickets. The conduct of the Program will be governed by 61 Pa. Code § 811.41 (relating to promotional prizes).

11. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania Millionaire Raffle II, prize money from winning Pennsylvania Millionaire Raffle II lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto. If no claim is made within 1 year of the anniversary date of the raffle drawing in which the ticket or chance was entered, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

12. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law, 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

GREGORY C. FAJT,
Secretary

[Pa.B. Doc. No. 06-681. Filed for public inspection April 21, 2006, 9:00 a.m.]

Pennsylvania Pharaoh's Gold '06 Instant Lottery Game

Under the State Lottery Law (72 P. S. §§ 3761-101—3761-314) and 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

1. *Name:* The name of the game is Pennsylvania Pharaoh's Gold '06.

2. *Price:* The price of a Pennsylvania Pharaoh's Gold '06 instant lottery game ticket is \$1.

3. *Play Symbols:* Each Pennsylvania Pharaoh's Gold '06 instant lottery game ticket will contain one play area featuring a "PYRAMID NUMBER" area and a "YOUR NUMBERS" area. The play symbols and their captions located in the "PYRAMID NUMBER" area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE) and 10 (TEN). The play symbols and their captions located in the "YOUR NUMBERS" area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN) and a Gold Bar symbol (GOLDBAR).

4. *Prize Symbols:* The prize symbols and their captions located in the "YOUR NUMBERS" area are: FREE Ticket (TICKET), \$1⁰⁰ (ONE DOL), \$2⁰⁰ (TWO DOL), \$4⁰⁰ (FOR DOL), \$5⁰⁰ (FIV DOL), \$10⁰⁰ (TEN DOL), \$20\$

(TWENTY), \$50\$ (FIFTY), \$100 (ONE HUN), \$500 (FIV HUN) and \$5,000 (FIV THO).

5. *Prizes:* The prizes that can be won in this game are: Free Ticket, \$1, \$2, \$4, \$5, \$10, \$20, \$50, \$100, \$500 and \$5,000. The player can win up to five times on a ticket.

6. *Approximate Number of Tickets Printed for the Game:* Approximately 14,400,000 tickets will be printed for the Pennsylvania Pharaoh's Gold '06 instant lottery game.

7. *Determination of Prize Winners:*

(a) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches the "PYRAMID NUMBER" play symbol and a prize symbol of \$5,000 (FIV THO) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$5,000.

(b) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches the "PYRAMID NUMBER" play symbol and a prize symbol of \$500 (FIV HUN) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$500.

(c) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Gold Bar symbol (GOLDBAR), and a prize symbol of \$100 (ONE HUN) appears in each of the five "prize" areas on a single ticket, shall be entitled to a prize of \$500.

(d) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches the "PYRAMID NUMBER" play symbol and a prize symbol of \$100 (ONE HUN) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$100.

(e) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Gold Bar symbol (GOLDBAR), and a prize symbol of \$20\$ (TWENTY) appears in each of the five "prize" areas on a single ticket, shall be entitled to a prize of \$100.

(f) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches the "PYRAMID NUMBER" play symbol and a prize symbol of \$50\$ (FIFTY) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$50.

(g) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Gold Bar symbol (GOLDBAR), and a prize symbol of \$10⁰⁰ (TEN DOL) appears in each of the five "prize" areas on a single ticket, shall be entitled to a prize of \$50.

(h) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches the "PYRAMID NUMBER" play symbol and a prize symbol of \$20\$ (TWENTY) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$20.

(i) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Gold Bar symbol (GOLDBAR), and a prize symbol of \$4.⁰⁰ (FOR DOL) appears in each of the five "prize" areas on a single ticket, shall be entitled to a prize of \$20.

(j) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches the "PYRAMID NUMBER" play symbol and a prize symbol of \$10.⁰⁰ (TEN DOL) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$10.

(k) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Gold Bar symbol (GOLDBAR), and a prize symbol of \$2.⁰⁰ (TWO DOL) appears in each of the five "prize" areas on a single ticket, shall be entitled to a prize of \$10.

(l) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches the "PYRAMID NUMBER" play symbol and a prize symbol of \$5.⁰⁰ (FIV DOL) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$5.

(m) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Gold Bar symbol (GOLDBAR), and a prize symbol of \$1.⁰⁰ (ONE DOL) appears in each of the five "prize" areas on a single ticket, shall be entitled to a prize of \$5.

(n) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches the "PYRA-

MID NUMBER" play symbol and a prize symbol of \$4.⁰⁰ (FOR DOL) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$4.

(o) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches the "PYRAMID NUMBER" play symbol and a prize symbol of \$2.⁰⁰ (TWO DOL) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$2.

(p) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches the "PYRAMID NUMBER" play symbol and a prize symbol of \$1.⁰⁰ (ONE DOL) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$1.

(q) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches the "PYRAMID NUMBER" play symbol and a prize symbol of FREE Ticket (TICKET) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of one Pennsylvania Pharaoh's Gold '06 instant game ticket or one Pennsylvania Lottery instant game ticket of equivalent sale price which is currently on sale.

8. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes and approximate odds of winning:

When Any of Your Numbers Match The Pyramid Number; Win with Prize(s) of:

<i>Win:</i>	<i>Approximate Odds of 1 In:</i>	<i>Approximate No. of Winners Per 14,400,000 Tickets</i>
FREE	TICKET	30
\$1	\$1	15
\$1 × 2	\$2	25
\$2	\$2	50
\$1 × 4	\$4	150
\$2 × 2	\$4	300
\$4	\$4	150
\$1 × 5 w/GOLD BAR	\$5	150
\$1 × 5	\$5	300
\$5	\$5	300
\$2 × 5 w/GOLD BAR	\$10	150
\$2 × 5	\$10	600
\$5 × 2	\$10	600
\$10	\$10	300
\$4 × 5 w/GOLD BAR	\$20	1,000
\$5 × 4	\$20	1,500
\$10 × 2	\$20	1,500
\$20	\$20	1,000
\$10 × 5 w/GOLD BAR	\$50	6,000
\$10 × 5	\$50	6,000
\$20 × 2 + \$10	\$50	6,000
\$50	\$50	6,000
\$20 × 5 w/GOLD BAR	\$100	120,000
\$20 × 5	\$100	120,000
\$50 × 2	\$100	120,000
\$100	\$100	120,000
\$100 × 5 w/GOLD BAR	\$500	2,880,000
\$100 × 5	\$500	2,880,000
\$500	\$500	2,880,000
\$5,000	\$5,000	1,440,000

GOLD BAR = Win all 5 prizes shown.

Prizes, including top prizes, are subject to availability at the time of purchase.

9. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania Pharaoh's Gold '06 instant lottery game tickets. The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentives).

10. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania Pharaoh's Gold '06, prize money from winning Pennsylvania Pharaoh's Gold '06 instant lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto. If no claim is made within 1 year of the announced close of the Pennsylvania Pharaoh's Gold '06 instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

11. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law, 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

12. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Pennsylvania Pharaoh's Gold '06 or through normal communications methods.

GREGORY C. FAJT,
Secretary

[Pa.B. Doc. No. 06-682. Filed for public inspection April 21, 2006, 9:00 a.m.]

ENVIRONMENTAL HEARING BOARD

**Borough of Etna v. DEP; EHB Doc. No. 2006-102-R;
3/01/06 Approval of NPDES Permit No.
PAG066119**

Borough of Etna has appealed the issuance by the Department of Environmental Protection of an NPDES permit to same for a facility in Etna Borough, Allegheny County.

A date for the hearing on the appeal has not yet been scheduled.

The appeal is filed with the Environmental Hearing Board (Board) at its office on the Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457 and may be reviewed by interested parties on request during normal business hours. If information concerning this notice is required in an alternative form, contact the Secretary to the Board at (717) 787-3483. TDD users may telephone the Board through the AT&T Pennsylvania Relay Center at (800) 654-5984.

Petitions to intervene in the appeal may be filed with the Board by interested parties under 25 Pa. Code § 1021.81 (relating to intervention). Copies of the Board's

rules of practice and procedure are available upon request from the Board.

MICHAEL L. KRANCER,
Chairperson

[Pa.B. Doc. No. 06-683. Filed for public inspection April 21, 2006, 9:00 a.m.]

**Bucks County Water and Sewer Authority v. DEP;
EHB Doc. No. 2006-089-K**

Bucks County Water and Sewer Authority has appealed the issuance by the Department of Environmental Protection (Department) of an NPDES permit to same for a facility in Upper Dublin Township, Montgomery County.

A date for the hearing on the appeal has not yet been scheduled.

The appeal is filed with the Environmental Hearing Board (Board) at its office on the Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457 and may be reviewed by interested parties on request during normal business hours. If information concerning this notice is required in an alternative form, contact the Secretary to the Board at (717) 787-3483. TDD users may telephone the Board through the AT&T Pennsylvania Relay Center at (800) 654-5984.

Petitions to intervene in the appeal may be filed with the Board by interested parties under 25 Pa. Code § 1021.81 (relating to intervention). Copies of the Board's rules of practice and procedure are available upon request from the Board.

MICHAEL L. KRANCER,
Chairperson

[Pa.B. Doc. No. 06-684. Filed for public inspection April 21, 2006, 9:00 a.m.]

FISH AND BOAT COMMISSION

**Permits for the Use of Cast Nets or Throw Nets;
Blue Marsh Reservoir, Berks County; Nockamixon Lake, Bucks County; Beltzville Lake, Carbon County; Lake Wallenpaupack, Pike County**

Under 58 Pa. Code § 63.48 (relating to permit for the use of cast nets or throw nets), the Executive Director of the Fish and Boat Commission (Commission) or his designee may issue permits for the use of cast nets or throw nets for the taking of gizzard shad 8 inches or less in length and alewife only in waters to be determined by the Executive Director. Notice is hereby given that the Executive Director has determined that the Commission will issue permits under § 63.48 for the following waters: Blue Marsh Reservoir, Berks County; Nockamixon Lake, Bucks County; Beltzville Lake, Carbon County; and Lake Wallenpaupack, Pike County. A separate permit will be required for each body of water.

In addition to other permit conditions that the Executive Director may require, the cast nets or throw nets shall be no greater than 10 feet in radius (20 feet in

diameter) with a mesh size of at least 3/8 inch. Furthermore, notwithstanding the provisions of § 61.1 (relating to Commonwealth inland waters), holders of permits for the use of cast nets or throw nets may take, catch, kill or possess a daily creel limit of 100 gizzard shad and alewife (combined species). A person may apply for a permit for the use of cast nets or throw nets by completing the form prescribed by the Commission. The applicant shall submit the completed form to the Commission along with the fee specified in section 2902 of the Fish and Boat Code (code) (relating to net permits).

It is unlawful to use cast nets or throw nets for the taking of gizzard shad and alewife or to take, catch, kill

or possess more than the daily creel limit of gizzard shad and alewife as set forth in § 61.1 without the required permit. A permit for the use of cast nets or throw nets shall be carried so that it can be presented to an officer authorized to enforce the code. It also is unlawful to use gizzard shad or alewife taken under a permit for the use of cast nets or throw nets as live bait in any water other than the water from which it was taken.

DOUGLAS J. AUSTEN, Ph.D.,
Executive Director

[Pa.B. Doc. No. 06-685. Filed for public inspection April 21, 2006, 9:00 a.m.]

HEALTH CARE COST CONTAINMENT COUNCIL

Special Reports and Requests for Data

The Health Care Cost Containment Council (Council), according to Act 89 as amended by Act 14, is required to publish a list of all special reports and data that have been prepared during the previous calendar year. The following represents a summary of the reports and requests for data generated by the Council in calendar year 2005. Questions about procedures for obtaining access to Council data should be addressed to JoAnne Z. Nelson, Supervisor, Special Requests Unit, Health Care Cost Containment Council, 225 Market Street, Suite 400, Harrisburg, PA 17101, (717) 232-6787, jnelson@phc4.org.

MARC P. VOLAVKA,
Executive Director

Agency for Healthcare Research & Quality	A custom 2000 through 2003 administrative inpatient discharge data set to be used to determine if there is a value to adding select clinical data elements to the administrative billing format.
Allied Rehabilitation Hospital	A custom second quarter 2004 through first quarter 2005 administrative inpatient discharge data set to be used to assist the organization in its strategic planning process.
Ashland Regional Medical Center	A standard region seven 2004 administrative inpatient discharge and 2003 through 2004 outpatient data set to be used to create utilization rates and market share information in strategic planning.
Bloomsburg Hospital	A custom 2003 administrative inpatient discharge and outpatient data set to be used to determine accurate potential case volume and area surgeon demand for the Bloomsburg Hospital.
Blue Mountain Health System	A custom 2003 through 2004 administrative inpatient discharge and 2003 through first quarter 2004 outpatient data set to be used for market share analysis.
Butler Health System	A custom 2001 through 2003 administrative outpatient data report to be used for market assessment for cardiovascular services.
Carlisle Area Health & Wellness Foundation	A custom second quarter 2004 through first quarter 2005 administrative inpatient discharge data set to be used in guiding the Foundation with two projects, setting up a fund for patients in critical need of services on the adult basic waiting list and create OB/GYN services within the local clinic and Carlisle Regional Medical Center.
Carlisle Area School District	A custom 2000 and 2003 through 2004 administrative inpatient discharge data report to be used for an analysis of the Carlisle Regional Medical Center addition and to compare to the surrounding hospitals.
CBIZ KA Consulting Services, LLC	A standard facility 2004 administrative inpatient discharge data set to be used to compare New Jersey inpatient discharge data with a large Eastern Pennsylvania hospital.
Charles Cole Memorial Hospital	A custom third quarter 2001 through second quarter 2004 administrative inpatient discharge and outpatient data set to be used to update a market share analysis previously prepared and used by management and the board of directors for strategic planning purposes.
Children's Home of Pittsburgh	A custom 1999 through 2003 administrative inpatient discharge data set to be used for market share analysis.
Children's Hospital of Philadelphia	A custom 2000 through 2003 administrative inpatient discharge data set to be used to investigate how external economic factors impact the regionalization of neonatal care and the outcomes of premature infants.

Children's Hospital of Philadelphia	A custom 1999 through third quarter 2004 administrative inpatient discharge data set to be used to develop a method to aggregate across complications to produce a risk-adjusted aggregated complications measure that can be used to evaluate hospitals of this Commonwealth. <i>For the Council.</i>
Community Health Systems	A standard Statewide 2004 administrative inpatient discharge and outpatient data set to be used to create utilization rates and market share information in strategic facilities planning.
Community Medical Center	A standard region six second quarter 2003 through first quarter 2004 administrative inpatient discharge data set to be used to assess their clinical and operational capabilities within the healthcare system and prepare marketing analysis.
Cooper Hospital/UMC	A standard region eight and nine 2004 administrative inpatient discharge data set to be used for market share research and strategic planning.
Crozer Keystone Health System	A custom third quarter 2003 through second quarter 2004 administrative inpatient discharge data report to be used inhouse for the purpose of creating a quality process for IBC patients.
DataBay Resources	A standard Statewide second quarter 2004 through first quarter 2005 administrative inpatient discharge and outpatient data set to be used in a commercial software product.
Duquesne University/Health Management Systems	A standard region one 2004 administrative inpatient discharge data set to be used to teach students in the Department of Health Management Systems how to use SQL to query a large healthcare database.
Fulton County Medical Center	A custom 2002 through 2003 administrative inpatient discharge and outpatient data report to be used by completing a feasibility study and determination of need for the HUD Section 242 program for the construction of a new facility in McConnellsburg, PA.
Fulton County Medical Center	A standard region five 2004 through first quarter of 2005 administrative inpatient discharge data set to be used to aid in the strategic planning process.
Good Shepard Rehabilitation Hospital	A standard region five, six, seven, eight, and nine 2004 administrative inpatient discharge data set to be used for market analysis.
Governor's Advisory Council for Hunting, Fishing and Conservation	A custom 1996 through 2003 administrative inpatient discharge data set to be used to research the use of firearms in the Commonwealth, and the results will be utilized in advising the Governor.
Harvard School of Public Health	A standard Statewide 2000 through 2001 administrative inpatient discharge data set to be used for a research project on nurse staffing as it relates to quality care.
Harvard University	A custom 1994 through 2002 administrative inpatient discharge data set and a standard 2000, 2002 and 2003 Coronary Artery Bypass Graft (CABG) surgery data sets to be used for a research agenda that will be to evaluate the manner in which new CABG surgery providers entered the market after 1996 and the subsequent effect on market outcomes.
Harvard University	A custom 1993 through 2003 administrative inpatient discharge data set to be used to augment the previous data for the same study purpose; to determine the affect of eliminating Certificate of Need legislation on hospital behavior.
HCR ManorCare	A standard region eight and nine third quarter 2003 through second quarter 2004 administrative inpatient discharge data set to be used to summarize and provide overall market opportunity findings for HCR Manor Care.
Health Research & Educational Trust	A standard region one, eight and nine 2003 administrative outpatient data set to be used to evaluate the diagnostic and payer mix for ambulatory care centers versus comparable outpatient departments.
HealthAmerica	A standard Statewide 2003 through first quarter 2005 administrative inpatient discharge and outpatient data set to use to determine facility specific profiling and performance metrics including DRG's, readmission rates, severity adjustments and support internal data analytic initiatives within HealthAmerica.
Healthshare Technology, Inc.	A standard Statewide 2004 inpatient discharge and revenue code detail data set to be used in a commercial software product.
Hillmont G. I. P. C.	A custom 2002 and 2003 outpatient data report to be used for evaluating gaps in service areas, analysis of improvements in service to their patients and expansion considerations.
Hospital & Healthsystem Association of PA	A standard 2004 fiscal year financial data and 2003 fiscal year restated financial data to be used to supplement financial and utilization data that they currently collect on a voluntary basis from member hospitals.

Innovative Health Solutions, LLC	A custom 2004 administrative inpatient discharge data set to be used to research out migration of New Jersey residents to hospitals in this Commonwealth.
Johns Hopkins University	A custom 2003 through second quarter 2004 inpatient discharge and outpatient data set to be used for analyzing trends in hospital utilization in Indiana county.
Lehigh Valley Business Conference on Healthcare	A custom 2004 administrative inpatient discharge data report to be used to study misadventures in hospitals and how misadventures affect the total cost, utilization and outcomes in a hospital stay. This data will be used to demonstrate cost differences between typical hospital stays and those involving misadventures. This information will then be presented to the area business leaders as a way to pursue quality commitments from the providers.
Lehigh Valley Hospital	A standard Statewide 2004 inpatient discharge and outpatient data set and a standard 2004 fiscal year financial data to be used for market share research and planning activities.
Lehigh Valley Physicians Group	A custom 1995 through 2004 administrative inpatient discharge data set to be used to conduct an evaluation of any changes in demographics of patients with burn diagnosis over the last 10 years in this Commonwealth.
Maryland Department of Health and Mental Hygiene	A custom 2001 through 2003 administrative inpatient discharge data set to be used for the annual Maryland asthma epidemiology report.
MediQual Systems, Inc.	A standard Statewide 2004 administrative inpatient discharge data set to be used to provide its Atlas Pennsylvania Market View product.
Memorial Hospital of York	A standard region five 2004 through first quarter 2005 administrative inpatient discharge data set to be used for comparative data analysis.
Merck & Co, Inc.	A custom 1998 through 2002 administrative inpatient discharge data set to be used to calculate population-based rates of hospitalizations for herpes zoster.
Mercy Health System	A custom 2001 through 2003 administrative inpatient discharge data report to be used to compare their readmission and mortality rates by DRG with other hospitals in Southeast PA, to determine opportunities for performance improvement.
Milliman USA	A standard Statewide 2004 administrative inpatient discharge data set to be used to analyze hospital inpatient utilization and costs in support of our consulting services in the healthcare field.
National Minority Health Month Foundation	A standard Statewide 2002 administrative inpatient discharge data set to be used to undertake a 3-year, retrospective, small area analysis of hospitalizations drawn from 50 states and the District of Columbia to determine if there are any geographical variations in the incidence of admissions for these chronic diseases.
New Solutions, Inc.	A custom 2004 administrative inpatient discharge data set to be used for research purposes and to provide market share analysis to their customers.
Parente Randolph	A custom 2004 administrative inpatient discharge data set to be used to evaluate home health discharge volumes of select hospitals.
Penn State College of Medicine	A custom 1995 through second quarter 2004 administrative inpatient discharge data set to be used in a research project to study the potential impact of Center for Excellence designation of bariatric surgery.
Penn State College of Medicine	A custom 2003 administrative inpatient discharge and outpatient data set to be used to map the incidence of colon cancer to conduct geographic and epidemiological research.
Penn State Hershey Medical Center	A custom 1998 through 2002 inpatient discharge data set merged with Department of Health birth registry data to be used to determine risk factors for newborn readmissions across this Commonwealth to prospectively target a population most likely to benefit from a home health visit.
Pennsylvania Bar Association	A custom 2003 through 2004 administrative inpatient discharge data report to be used to identify indicators of potential problems that patients may experience as a result of exposure to the healthcare system and to demonstrate how these potentially preventable adverse events in hospitals can affect the cost of care.
Pennsylvania Commission on Crime and Delinquency	A custom 2003 through 2004 administrative inpatient discharge and outpatient data set to be used in analysis looking at gun violence.
Department of Health	A custom 2000 through third quarter 2003 administrative inpatient discharge and outpatient data report to be used as part of the Act 62 Reflex Sympathetic Disorder.
Department of Health	A custom second quarter 2004 through fourth quarter 2004 administrative inpatient discharge and outpatient data set to be used as part of a database that will contain the results of the review of matching hospitals medical records pulled during hospital audits conducted by the Department of Health Licensing and Quality Assurance surveyors.

Department of Health	A custom 2000 through 2003 administrative inpatient discharge and outpatient data report to be used for program planning purposes, to more accurately gauge epilepsy prevalence and to allow for more thorough and effective service planning and resource allocation.
Department of Health	A custom 2004 through first quarter 2005 administrative inpatient discharge and outpatient data set to be used to assist in a pilot project to assess the feasibility of creating a birth defects registry for the Commonwealth.
Department of Health	A custom 1996 through 2003 administrative inpatient discharge and outpatient data set to be used as part of the Centers for Disease Control and Prevention grant requirement to assess the burden of asthma in this Commonwealth.
Department of Health	A custom fourth quarter 2002 through first quarter 2004 administrative inpatient discharge and outpatient data set to be used to assess the burden of osteoporosis in this Commonwealth as related to previous and current trends.
Department of Health	A custom 1998 through 2003 administrative inpatient discharge data set to be used to support a comprehensive Statewide needs assessment of the maternal and child health population in this Commonwealth.
Department of Health	A custom 2003 administrative inpatient discharge data report to be used as part of a series of Department of Health web pages that correspond to the Healthy People 2010 objectives.
Department of Health	A standard Statewide first quarter 2005 administrative inpatient discharge and outpatient data set to be used to profile discharge patterns to develop and evaluate algorithms for sampling discharges, which will be used by the Division of Acute and Ambulatory Care to carry out its quality assurance and licensing functions.
Department of Health	A custom first quarter 2005 administrative inpatient discharge and outpatient data set to be used to support the Department of Health's licensing and quality assurance process.
Department of Public Welfare	A custom 2003 administrative inpatient discharge data report to be used in its efforts to establish a hospital quality outcomes program for the Medical Assistance Fee-for-Service program.
Department of Public Welfare	A custom 2003 fiscal year financial data to be used to compute payments to hospitals for the Hospital Uncompensated Care and Extraordinary Expense programs established with the Tobacco Settlement Act of 2001.
Office of the Attorney General	A standard Statewide 2004 administrative inpatient discharge data, market share report and 1996 through 2004 inpatient revenue code detail data set to be used in analyzing hospital mergers under their authority to enforce the antitrust laws on behalf of the Commonwealth and its citizens.
Office of the Auditor General	A custom 2003 fiscal year administrative inpatient discharge data set and financial data to be used in auditing the hospitals that received June 2005 Tobacco Settlement moneys.
Pennsylvania State Data Center	A custom 2003 fiscal year financial data report to be used in the 2005 <i>Pennsylvania Abstract</i> published annually by the Pennsylvania State Data Center.
Philadelphia Department of Public Health	A custom 1993 through 2001 administrative inpatient discharge data set to be used in the Urban Diabetics: Primary Care and Hospitalizations research project, which will examine the incidence of and risk factors for multiple health outcomes of patients with diabetes.
<i>Philadelphia Inquirer</i>	A standard region eight and nine 2003 through first quarter 2004 administrative inpatient discharge data set to be used for news stories.
Pittsburgh Business Group on Health	A custom 2002 and 2003 administrative inpatient discharge data report to be used to study misadventures in hospitals and how misadventures affect the total cost, utilization and outcomes in a hospital stay compared to a typical stay without the occurrence of misadventures.
RAND of Pitt Health Institute	A custom 1999 through 2003 administrative inpatient discharge data set to be used to develop a quality improvement intervention for reducing rehospitalizations for depression in Allegheny County, without increasing length or inpatient hospital stay.
Rutgers University	A custom 1994 through 1997 and 2003 administrative inpatient discharge and outpatient data set to be used as part of a project to determine the impact of a recent hospital acquisition in Salem County, New Jersey by analyzing the hospital services that New Jersey residents receive in this Commonwealth and New York.
Solucient	A standard Statewide second quarter 2004 through first quarter 2005 administrative inpatient discharge and outpatient data set to be used in a commercial software product.

Susquehanna Health System	A standard region four, five and six 2001 through second quarter 2004 administrative inpatient discharge and outpatient data set to be used to help plan future facility needs to build a new hospital.
The MEDSTAT Group/Inforum, Inc.	A standard Statewide second quarter 2004 through first quarter 2005 administrative inpatient discharge and outpatient data set to be used in a commercial software product.
The Wharton School	A custom 1990 through 1999 administrative inpatient discharge data set to be used to trend analysis of payer mix across hospital systems in Philadelphia during the late 1990s.
Treo Solutions	A standard region two 2003 administrative inpatient discharge data set to be used to assist a client in a Sole Community Provider application.
Tyler Memorial Hospital	A custom 2004 administrative inpatient discharge and outpatient data set to be used to determine the hospital's market share.
United States Department of Justice, Antitrust Division	A standard Statewide first and second quarter 2004 administrative inpatient discharge data set to be used to generate internal reports of improvement benchmarking and market analysis.
United States Department of Justice, Antitrust Division	A custom 2004 administrative inpatient discharge data set to be used to support documentation for market share analysis in 2006 business plan.
University of Florida, Department of Economics	A custom 1994 through first quarter 2004 administrative inpatient discharge data set to be used to study neonatal health care and hospital competition in this Commonwealth and around the country.
University of Pennsylvania	A custom linkage of Pennsylvania cancer registry data to previously purchased 1998 through 1999 administrative inpatient discharge data set to be used to construct risk-adjusted odds of death and failure to rescue for hospitalized cancer patients in this Commonwealth.
University of Pennsylvania	A standard Statewide 1998 through 2004 administrative inpatient discharge data set to be used to investigate whether the malpractice insurance "crisis" in this Commonwealth has lead to a relative decline in the number of physicians offering obstetric services.
University of Pennsylvania	A standard region nine 2004 inpatient discharge and outpatient data set to be used for a small pilot study relating to urban heat islands.
University of Pennsylvania	A custom 1991, 1993, 1995, 1997, 1999, 2001 and 2003 administrative inpatient discharge data set to be used as part of a University of Pennsylvania funded pilot research project to examine trends in the use of cardiovascular procedures in this Commonwealth.
University of Pennsylvania School of Medicine	A custom second quarter 2004 through first quarter 2004 administrative inpatient discharge data set to be used for continuing research study on reducing medication errors among the elderly.
University of Pennsylvania School of Medicine	A standard region nine 2003 administrative inpatient discharge data set to be used for a surveillance system, funded by the National Institute on Alcohol Abuse and Alcoholism.
University of Pittsburgh	A standard region one 2004 administrative inpatient discharge data set to be used for educational purposes. Specifically, to teach students how to benchmark hospitals based on length of stay for conditions, calculate readmission rates and case-mix adjust in the Managing the Health of Populations course.
University of Pittsburgh Department of Epidemiology	A custom 1994 through third quarter 2004 administrative inpatient discharge and outpatient data set to be used to study the forensic epidemiology of bariatric surgery in this Commonwealth.
University of Pittsburgh Medical Center	A standard Statewide third quarter 1990 through first quarter 2005 inpatient discharge data and third quarter 2000 through first quarter 2005 outpatient data set to be used to produce various research reports including patient origin for UPMC hospitals, UPMC market share analysis, utilization trends and physician and hospital volumes at UPMC and other hospitals.
University of Pittsburgh School of Medicine	A custom 2004 administrative inpatient discharge data set to be used to validate a decision rule to identify heart failure patients.
University of Pittsburgh School of Medicine	A custom 1997 through 2002 administrative inpatient discharge data set to be used to further study thrombosis in hospitalized patients in this Commonwealth.
University of Pittsburgh School of Medicine	A custom 1999 through 2004 administrative inpatient discharge data set to be used to conduct a research project to model the relationship retrospectively cardiopulmonary health outcomes and air pollutants in Allegheny County.

- Verispan A standard Statewide 2004 inpatient discharge and outpatient data set to be combined with other state's data and used to estimate diagnoses and procedures at the hospital and National level.
- Wyoming Valley Health Care System A standard Statewide third and fourth quarter 2004 administrative inpatient discharge data and 2004 outpatient data and a standard 2004 inpatient and outpatient revenue code detail data set to be used to generate internal reports for quality improvement benchmarking and market analysis.
- Wyomissing Surgical Services A custom 2003 administrative outpatient data report to be used for internal market share analysis.

[Pa.B. Doc. No. 06-686. Filed for public inspection April 21, 2006, 9:00 a.m.]

HISTORICAL AND MUSEUM COMMISSION

State Surplus Property Program; Deaccession Auction

The Historical and Museum Commission will be auctioning items deaccessioned from its permanent collection. These items are being auctioned because they are duplicates and/or do not pertain to Commonwealth history. The public auction will be held on May 17, 2006, by Ziegler's Auction Company, Inc., located in Hummelstown, PA. The auction will feature a diverse array of items including books, furnishings and equipment from an early 20th century dentist office, woodworking, agricultural and mining tools and equipment, prints, engravings and frames in addition to an assortment of 19th century household and merchandising objects.

BARBARA FRANCO,
Executive Director

[Pa.B. Doc. No. 06-687. Filed for public inspection April 21, 2006, 9:00 a.m.]

INDEPENDENT REGULATORY REVIEW COMMISSION

Notice of Filing of Final Rulemakings

The Independent Regulatory Review Commission (Commission) received the following regulations. They are scheduled to be considered on the dates noted. The Commission's public meetings are held at 333 Market St., 14th Floor, Harrisburg at 10:30 a.m. Note that the time and date of the meetings are tentative and interested parties are encouraged to contact the Commission at (717) 783-5417 or visit its website at www.irrc.state.pa.us to confirm that information. To obtain a copy of a regulation, interested parties should first contact the promulgating agency. If a copy cannot be obtained from the promulgating agency, the Commission will provide a copy.

Final-Form

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Received</i>	<i>Public Meeting</i>	<i>Resubmitted</i>
15-426	Department of Revenue Sales and Use Tax; Prebuilt Housing		5/4/06	4/7/06
57-238	Pennsylvania Public Utility Commission Gas Service; Safety Code	4/11/06	5/18/06	

JOHN R. MCGINLEY, Jr.,
Chairperson

[Pa.B. Doc. No. 06-688. Filed for public inspection April 21, 2006, 9:00 a.m.]

INSURANCE DEPARTMENT

Application and Request for Approval to Redomesticate

Commonwealth Land Title Insurance Company, a domestic title insurance company, has filed for approval a Plan of Redomestication whereby its state of domicile would change from this Commonwealth to Nebraska. The filing was made under 15 Pa.C.S. §§ 1101—1110 (relating to the Business Corporation Law of 1988). Persons wish-

ing to comment on the redomestication are invited to submit a written statement to the Insurance Department (Department) within 30 days of publication of this notice in the *Pennsylvania Bulletin*. Written statements must include the name, address and telephone number of the interested party, identification of the application to which the statement is addressed and a concise statement with sufficient detail and relevant facts to inform the Department of the exact basis of the statement. Written statements should be directed to Stephanie Ohnmacht, Company Licensing Division, Insurance Department, 1345

Strawberry Square, Harrisburg, PA 17120, fax (717) 787-8557, sohnmacht@state.pa.us.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 06-689. Filed for public inspection April 21, 2006, 9:00 a.m.]

Notice to Workers' Compensation Insurance Carriers

Insurance companies that write Workers' Compensation are required to report workers' compensation premium, loss and claim count information using 2005 Special Schedule "W." Authority for this call is contained in section 655 of the Insurance Company Law of 1921 (40 P. S. § 815).

Information to be reported by May 15, 2006, includes the following:

For calendar year 2005:

- Premiums—Written, Unearned, Earned.
- Losses—Indemnity vs. Medical for Paid, Reserves (Case vs. Bulk & IBNR), Incurred.
- Amounts added to premium to yield Standard Earned Premium at Designated Statistical Reporting Level.
- Deductible adjustments to yield first dollar premiums and losses.

For evaluations as of December 31, 2004, and December 31, 2005, policy year information for large deductible (that is, deductible > \$100,000) policies versus all other policies including small deductible policies on a first dollar basis:

- Premiums—Earned.
- Losses—Indemnity vs. Medical for Paid, Reserves (Case vs. Bulk & IBNR), Incurred.
- Claim counts—Indemnity vs. Medical for Incurred, Closed with and without payments.

Information regarding the submission of 2005 Special Schedule "W" has been sent to carriers and has also been posted at the Insurance Department's website at www.ins.state.pa.us.

Persons who have not received this information or have questions concerning information contained in this notice should contact Bojan Zorkic, Actuarial Associate, 1311 Strawberry Square, Harrisburg, PA 17120, (717) 787-6968, bzorkic@state.pa.us.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 06-690. Filed for public inspection April 21, 2006, 9:00 a.m.]

MILK MARKETING BOARD

Sunshine Meeting Dates for 2006-2007

In accordance with 65 Pa.C.S. §§ 701—716 (relating to Sunshine Act), the Milk Marketing Board has established the following meeting dates for 2006-2007:

<i>Date</i>	<i>Location</i>	<i>Time</i>
July 12, 2006	Room 202, Agriculture Building Harrisburg, PA 17110-9408	8 a.m. to 4 p.m.
August 2, 2006	Room 202, Agriculture Building Harrisburg, PA 17110-9408	8 a.m. to 4 p.m.
September 6, 2006	Room 202, Agriculture Building Harrisburg, PA 17110-9408	8 a.m. to 4 p.m.
October 4, 2006	Room 202, Agriculture Building Harrisburg, PA 17110-9408	8 a.m. to 4 p.m.
November 1, 2006	Room 202, Agriculture Building Harrisburg, PA 17110-9408	8 a.m. to 4 p.m.
December 6, 2006	Room 202, Agriculture Building Harrisburg, PA 17110-9408	8 a.m. to 4 p.m.
January 3, 2007	Room 202, Agriculture Building Harrisburg, PA 17110-9408	8 a.m. to 4 p.m.
February 7, 2007	Room 202, Agriculture Building Harrisburg, PA 17110-9408	8 a.m. to 4 p.m.
March 7, 2007	Room 202, Agriculture Building Harrisburg, PA 17110-9408	8 a.m. to 4 p.m.
April 4, 2007	Room 202, Agriculture Building Harrisburg, PA 17110-9408	8 a.m. to 4 p.m.
May 2, 2007	Room 202, Agriculture Building Harrisburg, PA 17110-9408	8 a.m. to 4 p.m.
June 6, 2007	Room 202, Agriculture Building Harrisburg, PA 17110-9408	8 a.m. to 4 p.m.

KEITH BIERLY,
Secretary

[Pa.B. Doc. No. 06-691. Filed for public inspection April 21, 2006, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

April 2006 Review of Fuel Cost Recovery Surcharge; S. P. 28208

Public Meeting held
April 6, 2006

Commissioners Present: Wendell F. Holland, Chairperson; James H. Cawley, Vice Chairperson; Bill Shane; Kim Pizzingrilli; Terrance J. Fitzpatrick

Order

By the Commission:

The Pennsylvania Public Utility Commission (Commission) by its Fuel Cost Recovery Surcharge Order at Special Permission Number 28208, adopted June 10, 2004, authorized call or demand, paratransit and airport transfer carriers under the jurisdiction of this Commission to adjust rates and fares to offset unanticipated fuel expenditures. At its Public Meeting of June 2, 2005 the Commission approved an extension of the temporary fuel

surcharge until June 12, 2006. The Commission also required the Bureau of Transportation and Safety to investigate the merits of the fuel surcharge on a quarterly basis.

As a result of the volatile nature of gasoline prices in the aftermath of Hurricane Katrina, the amounts for the fuel surcharge were adjusted accordingly at Public Meeting on September 9, 2005 and continued to be evaluated on a monthly basis until the Public Meeting of January 12, 2006, at which time the cost of gasoline had stabilized. The last adjustment was made by the Commission at Public Meeting on January 12, 2006 and the evaluation of the fuel surcharge reverted to quarterly status.

The most recent data for the week ending April 3, 2006 indicates that the price of gasoline is \$2.65 per gallon, which is an increase of \$.19 or 8% from the average price of \$2.46 for January 9, 2006. The effect of this increase results in an average cost of fuel per trip of \$1.20 for call or demand operations. The average cost of fuel per trip for paratransit and airport transfer operations is \$2.77. Considering this increase, the surcharge shall be adjusted to \$.60 per trip for each paying passenger for call or demand service and \$1.35 per trip for each paying passenger for airport transfer and paratransit services, effective April 10, 2006.

The changes which have occurred in the Fuel Cost Recovery Surcharge at S. P. 28208 are summarized in the table below.

Historical Charges for Fuel Cost Recovery Surcharge at S. P. 28208

<i>Effective Date</i>	<i>Call or Demand</i>	<i>Airport Transfer/Paratransit</i>
June 14, 2004	\$.30	\$.70
September 2, 2005	\$.70	\$1.55
September 12, 2005	\$.90	\$2.00
October 3, 2005	\$.70	\$1.55
October 31, 2005	\$.55	\$1.25
December 5, 2005	\$.40	\$.95
January 16, 2006	\$.50	\$1.15
April 10, 2006	\$.60	\$1.35

Based upon the evidence available, we are of the opinion that the passenger motor carrier industry continues to have a need for the fuel surcharge. However, due to the increase in prices we believe it is necessary to make adjustments to the fuel cost recovery surcharge; *Therefore,*

It Is Ordered That:

1. The Fuel Cost Recovery Surcharge established at Special Permission No. 28208 be continued until June 12, 2006.
2. Call or demand carriers rendering transportation service under the jurisdiction of the PA Public Utility Commission shall increase the surcharge to \$.60 per trip for each paying passenger.
3. Paratransit carriers and airport transfer carriers rendering transportation service under the jurisdiction of the PA Public Utility Commission shall increase the surcharge to \$1.35 per trip for each paying passenger.
4. The increases be approved to become effective April 10, 2006.
5. Call or demand motor carriers shall notify the public by placing a notice in all vehicles, which shall read: "The

PA Public Utility Commission has authorized a fuel surcharge under Special Permission No. 28208. The surcharge has been increased to \$.60 per trip for each paying passenger and is effective on April 10, 2006. The fuel surcharge shall terminate on June 12, 2006."

6. Paratransit and airport transfer motor carriers shall notify the public by placing a notice in all vehicles, which shall read: "The PA Public Utility Commission has authorized a fuel surcharge under Special Permission No. 28208. The surcharge has been increased to \$1.35 per trip for each paying passenger and is effective on April 10, 2006. The fuel surcharge shall terminate on June 12, 2006."

7. The Secretary of this Commission shall duly certify this order and deposit same with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 06-692. Filed for public inspection April 21, 2006, 9:00 a.m.]

2006 Price Change Opportunity Filing

Public Meeting held
April 6, 2006

Commissioners Present: Wendell F. Holland, Chairperson; James H. Cawley, Vice Chairperson, statement concurring in part and dissenting in part follows; Bill Shane; Kim Pizzigrilli; Terrance J. Fitzpatrick

Verizon North Inc. 2006 Price Change Opportunity Filing; Doc. Nos. R-00051227 and P-00001854F1000

Office of Small Business Advocate v. Verizon North Inc.; Doc. No. R-00051227C0001

Office of Consumer Advocate v. Verizon North Inc.; Doc. No. R-00051227C0002

Order

By the Commission:

I. BACKGROUND

Before us for disposition is the Verizon North Inc. ("Verizon North" or "Company") annual 2006 Price Change Opportunity ("PCO") filing and the associated revenue increases. Verizon North's annual 2006 PCO filing was made under the provisions of the new Chapter 30 law, Act 183 of 2004, P. L. 1398 (66 Pa.C.S. §§ 3011—3019) ("Act 183") and pursuant to the Company's Alternative Regulation and Network Modernization Plan ("Chapter 30 Plan") that this Commission approved at Docket No. P-00001854F1000.¹

As a result of the passage of Act 183, companies with Chapter 30 Plans are entitled to significantly lower inflation offset values within their respective price cap formulas in exchange for a commitment to accelerated broadband deployment. Inflation offsets previously ranging from 2% to 2.93% were reduced to either 0% or 0.5%, depending on each company's Chapter 30 Plan. In Verizon North's case, the inflation offset was reduced from 2.50% to 0.5%. Accordingly, annual PCO filings have the potential for substantial revenue and rate impacts on end-user consumers.

¹ *Petition for Amended Alternative Regulation and Network Modernization Plan of Verizon North Inc.*, Docket No. P-00001854F1000 (Order entered May 20, 2005).

Under the Company's Price Stability Plan ("PSP"), the Price Stability Mechanism ("PSM") calculates the allowable change (increase or decrease) in rates for noncompetitive services based on the annual change in the Gross Domestic Product Price Index ("GDP-PI"). The actual total price changes for noncompetitive services are then tracked using the Service Price Index ("SPI"). The PSP also addresses revenue neutral rate rebalancing/restructuring and the introduction of new services. The PSP set forth in Verizon North's Chapter 30 Plan is a complete substitution of the rate base/rate of return regulation. Noncompetitive services are defined as regulated services or business activities that have not been determined or declared to be competitive.

II. COMPANY FILING

On December 30, 2005, Verizon North filed its annual PCO filing using the change in 2004 and 2005 second quarter GDP-PI (Gross Domestic Product—Price Index) of 2.16% after the inflation offset that produced an annual revenue increase allowable for noncompetitive revenues of \$3,257,000. The proposed price increases equal \$3,188,000. The Company proposes to bank the difference of \$69,000, consistent with the PCO banking methodology and timing that has been approved for Sprint/United.²

Verizon North proposes to implement its PCO by increasing rates for the following services: Residence and Business Dial Tone Line, Return Check Charge and the Operator Surcharges on local Station-to-Station and Person-to-Person calls. The proposed tariff revisions to Tariff Telephone Pa. P.U.C. Nos. 1, 3, 4, 5, 6 and 11 are to become effective April 15, 2006.

On December 30, 2005, the Office of Small Business Advocate ("OSBA") filed a Formal Complaint. The OSBA contends that the Company's proposed rates, rules, and conditions of service may be unjust, unreasonable, unduly discriminatory, and otherwise contrary to law, particularly as they pertain to small business customers.

On January 10, 2006, the Office of Consumer Advocate ("OCA") filed a Formal Complaint. The OCA contends that the Company's proposed rates, rules, and conditions of service may be unjust, unreasonable, unduly discriminatory, and otherwise contrary to law. The OCA also disagrees with the Company's banking of the remaining 2006 PCO increase.

On January 26, 2006, Verizon PA filed Answers to the complaints and Motions to Dismiss the complaints reaffirming its position on the various issues contained in the filing.

On February 6, 2006, the OCA and OSBA filed Answers to Verizon's Motion to Dismiss Complaint.

III. DISCUSSION

1. PCO Calculations and Rate Increases

The annual Verizon North PCO submissions under Chapter 30 laws must conform to its Commission-approved Amended Chapter 30 Plan. Our review of the calculations submitted by Verizon North indicates that they are accurate and consistent with the terms of the Company's Price Stability Mechanism/Price Change Opportunity formula approved in its Chapter 30 Plan at Docket No. P-00001854F1000. In addition, we are of the opinion that the proposed rate increases appear to be reasonable and in conformance with the Company's Chapter 30 Plan. Therefore, we shall approve Verizon North's 2006 PCO calculation and proposed rate increases subject

to findings of the Office of Administrative Law Judge ("ALJ") regarding the complaints filed by OCA and OSBA and subject to refund.

2. Banked Revenues

As noted, the Company proposes to bank the remainder of the 2006 PCO increase consistent with the PCO banking methodology and timing that has been approved for Sprint/United. The approved Chapter 30 Plans for Sprint/United and other ILECs contain certain provisions for banking. We note that the OSBA does not object to the banking, and the OCA did not object to the proposal to bank a portion of the increase. The OCA, however, did suggest that the Commission set restrictions on Verizon North's use of the banked portions similar to restrictions that exist in other ILEC Chapter 30 plans. The OCA did not state whether the Sprint/United banking rules would be acceptable. We further note that in our Order entered October 11, 2005, at Docket Nos. P-00930715 and P-00001854, we directed Verizon PA to bank a portion of its 2003 PCO filing to be used to fund its required contribution to the Pa. USF. Here, we placed a restriction on the use of the funds, similar to that which the OCA requested, without Verizon PA's Chapter 30 Plan containing any banking provisions. Finally, it is noted that if the banking is not permitted, the only alternatives available to Verizon North are to (1) forego that portion of the PCO that they desire to bank or (2) increase rates by the full \$3.3 million instead of the proposed \$3.2 million. In our opinion, we cannot force Verizon North to forego an increase to which it is entitled. As such, the only option available to Verizon North would be to make the increases larger than proposed. However, we do not support giving Verizon North, or any utility, an increase greater than that requested. Therefore, in order to ensure an equitable balance between Verizon North's entitlement while avoiding further rate increases beyond what Verizon North proposed in this filing, we shall approve Verizon North's proposal to bank the \$69,000 remainder of its 2006 PCO increase consistent with the following banking methodology and timing that we previously approved for Sprint/United:³

1. After 2001, annual price decreases calculated under the PSI filed on September 1 of each year may be banked for application in future years, not to exceed four (4) consecutive years.⁴ Such banking of decreases will be with interest at a rate set forth in 66 Pa.C.S. § 1308.

2. The banked price changes must be implemented no more than four (4) years after the annual price change is applied.

3. If a decrease is greater than \$500,000, the Company will implement the decrease immediately.

This adoption of the Sprint/United banking methodology shall constitute an agreement between the Commission and Verizon North pursuant to § 3013(b) of Act 183. We make no determination at this time whether the recoveries of banked amounts are affected by a company's past or future competitive service declarations. However, we are mindful of Sections 3016(b) and (f) and encourage the Company to recover its banked revenue increases from the appropriate group of its non-competitive customers, consistent with applicable provisions of Chapter 30 (66 Pa.C.S. §§ 3001, et al.);

³ The reference to "PSI filed on September 1 of each year" in the Sprint/United banking methodology should be modified to read "PCO filed on November 15 of each year" for Verizon North.

⁴ For annual price increases, the Company may apply them in future years, without limitation as to time.

² *Petition for Amended Alternative Regulation and Network Modernization Plan of United Telephone Co.*, Docket No. P-00981410F1000 (Order entered June 23, 2005).

Therefore,

It Is Ordered That:

1. Verizon North Inc's 2006 PCO filed on December 30, 2005, is in compliance with its Commission-approved Amended Chapter 30 Plan.

2. The tariffed rate increases proposed by Verizon North Inc. be permitted to go into effect as filed subject to findings of the Office of Administrative Law Judge regarding the complaints filed by the Office of Consumer Advocate and the Office of Small Business Advocate and subject to refund investigation and recoupment.

3. Verizon North Inc.'s proposal to bank the remainder of its 2006 PCO increase is approved.

4. The banking methodology and timing approved by the Commission for Sprint/United at Docket No. P-00981410F1000, Order entered June 23, 2005, be adopted by Verizon North Inc.

5. The Commission Order in this matter be published in the *Pennsylvania Bulletin*.

6. A copy of this Order be served on the Office of Consumer Advocate, Office of Small Business Advocate, the Office of Trial Staff and the Office of Administrative Law Judge.

JAMES J. MCNULTY,
Secretary

**Statement of Vice Chairperson James H. Cawley
Concurring in Part and Dissenting in Part**

*Public Meeting: April 4, 2006; MAR-2006-FUS-0435**

*Verizon North Inc. 2006 Price Change Opportunity Filing;
Doc. Nos. R-00051227 and P-00001854F1000*

*Office of Small Business Advocate v. Verizon North Inc.;
Doc. No. R-00051227C0001*

*Office of Consumer Advocate v. Verizon North Inc.; Doc.
No. R-00051227C0002*

Before us for disposition is the Staff recommendation regarding the Verizon North Inc. ("Verizon North" or "Company") 2006 Price Change Opportunity ("PCO") filing that was made on December 30, 2005. This filing was submitted under the provisions of the new Chapter 30 law, Act 183 of 2004, P.L. 1398, 66 Pa.C.S. §§ 3011—3019 ("Act 183" or "new Ch. 30"), and the Company's Amended Alternative Regulation and Network Modernization Plan ("Amended NMP"), that this Commission approved at Docket No. P-00001854F1000.⁵

Consistent with my statement concurring in part and dissenting in part in the corresponding Verizon Pennsylvania Inc. ("Verizon PA") 2006 PCO filing,⁶ I similarly concur in part and dissent in part to the disposition of the Verizon North 2006 PCO adopted by the majority. Although the Company is entitled to a revenue and rate increase under the new Ch. 30 law, there are certain troublesome aspects in these filing that should be explored in depth in the associated adjudication of the formal complaints by the Office of Small Business Advocate ("OSBA") and the Office of Consumer Advocate ("OCA") on a going-forward basis. I also continue to disagree with the position adopted by the majority that amendments of a Ch. 30 incumbent local exchange carrier's ("ILEC's") Amended Network Modernization Plan

("Amended NMP") can be proposed, considered, and adopted through PCO tariff filings.

A. Ch. 30 PCO Revenue Increase

I concur with the proposed increase in Verizon North's annual non-competitive service revenues in the amount of \$3,188,000. I note that the majority of this revenue increase is allocated to the residential and small business end-user customers of basic local exchange telephone service.

B. Potential Rate Discrimination

Although we are permitting the proposed \$3,188,000 non-competitive services revenue increase to go into effect subject to the adjudication of the formal OSBA and OCA complaints, I am concerned that the resulting rates may be discriminatory. Basic local exchange services of residential and small business customers will absorb the bulk of the proposed PCO revenue increase. It appears that the pending complaint proceedings will explore whether the PCO revenue increase could (or must) be lawfully allocated to other non-competitive service categories of the Company in accordance with its Ch. 30 Amended NMP and the statutory mandates of Act 183. The same complaint proceedings will also provide the legal and evidentiary basis for a future decision on whether the provision of rate discounts to certain categories of small business customers that sign-up for the Verizon North 24-month business local exchange term plan, where such customers still subscribe to non-competitive local exchange services of the Company, gives rise to unlawful rate discrimination.⁷

My additional concern involves the relationship of the Company's PCO revenue and rate increase, the concept of "protected services" as these are defined under the new Ch. 30 law, 66 Pa.C.S. § 3012, and Verizon North's flexible provision of "bundled packages of services" "which include nontariffed, competitive, noncompetitive or protected services," and the "services of an affiliate, in combinations and at a single price selected by the company." 66 Pa.C.S. § 3016(e)(2). Verizon North provides such "service bundles" as "competitive service" offerings to both residential and business customers under its informational Tariff No. 11.⁸ It does not appear that Verizon North has included any revenues from the "protected" local exchange service portions of such "service bundles" in its overall non-competitive service category revenues on which the overall PCO revenue and rate increase is calculated. Correspondingly, the Company's PCO filing does not provide sufficient information indicating whether the "protected" local exchange service portion of these "service bundles" is affected in any way by the proposed PCO-related local exchange service dial tone line rate increases.

The complaint proceedings should address the issue of whether there is unlawful rate discrimination if the "non-competitive" basic local exchange service residential and small business customers absorb PCO related revenue and rate increases, but such rate increases are not reflected in the corresponding "protected services" portion of residential and small business customers that subscribe to the Company's "service bundles" offered under its informational Tariff 500. More specifically, are "protected services" offered as parts of a "service bundle" somehow transformed into "competitive" services? If so, is

⁵ *Petition for Amended Alternative Regulation and Network Modernization Plan of Verizon North Inc.*, Docket No. P-00001854F1000, Order entered May 20, 2005.

⁶ *Verizon Pennsylvania Inc. 2006 Price Change Opportunity Filing*, Docket Nos. R-00051228, P-00930715F1000, R-00051228C0001, R-00051228C0002, Order entered March 22, 2006. *Statement of Vice Chairman James H. Cawley*.

⁷ Docket No. R-00051227, Verizon North 2006 PCO filing, December 30, 2005, Executive Summary; OCA Formal Complaint, Docket No. R-00051227C0002, filed January 10, 2006, ¶ 4.C. at 2.

⁸ See generally Verizon North Tariff Telephone-Pa. P.U.C. No. 11, Sec. 24, Orig. Sheets 2-12.

such transformation compatible with the statutory mandate and classification of telecommunications services under Act 183? And should the "protected service" portion of "service bundles" be accounted in the Company's PCO mechanism in some fashion? These issues are important because they relate to basic telephone service consumer protections that are the subject of an ongoing proceeding.⁹

C. Banking of 2006 PCO Revenues

It is my tentative conclusion that a PCO tariff filing is not the proper method to obtain amendments to an ILEC's Ch. 30 Amended NMP. Act 183 provides for the orderly process of filing a petition in order to obtain such amendments to an ILEC's Ch. 30 Amended NMP.¹⁰ Like many other ILECs, Verizon North could have inserted a "banking" provision in its Amended NMP, or it could have petitioned for an appropriate modification to its Amended NMP. The Commission would have evaluated and ruled on such a petition within the statutorily prescribed 100-day time interval. 66 Pa.C.S. § 3014(e). Verizon North did not choose to do either. Instead, it seeks a modification of its Amended NMP through its 2006 PCO tariff filing.

Since Act 183 provides a specific method to modify Amended NMPs, it appears that the Commission may not entertain Verizon North's request for such a modification in this PCO filing.¹¹ I doubt that we may ignore the requirement of Section 3014(e) any more than we may ignore the Legislature's deletion of Section 1308 from Section 3019(h).

It does not necessarily follow that the Company may alternatively collect the full amount of the revenues to which it is entitled in 2006 should the procedure in Section 3014(e) be found mandatory. The Company having voluntarily placed itself in a "use it or lose it" position, it may well be required to "lose" the amount it now wishes to bank.

Although I disagree with the banking amendment to the Verizon North Amended NMP that is being implemented through the Company's 2006 PCO, I agree with the safeguard contained in the adopted Order regarding

⁹ *Petition of Trinsic Communications, Inc. f/k/a Z-tel Communications, Inc. for Waiver of Certain Billing and Collection Rule Requirements Set Forth at 52 Pa. Code Chapter 64 to Permit Provision of Singly-Priced Service Packages to Customers*, Docket No. P-00052169, Order entered February 1, 2006.

¹⁰ See generally *Petition for revision to the Amended Alternative Regulation and Network Modernization Plan of Commonwealth Telephone Company*, Docket No. P-00961024F1000, Order entered February 10, 2006; and 66 Pa.C.S. § 3013(b).

¹¹ Nor should the Commission prejudice the propriety of this attempted shortcut. It is an issue included within OCA's complaint. *Answer of the Office of the Consumer Advocate to the Verizon North Inc. Motion to Dismiss*, Docket No. R-00051227C0002, February 6, 2006, at 6-10, and Appendix A.

the rate recovery of the banked revenues from non-competitive services. Although the banked revenues only amount to \$69,000, they should be recovered from the non-competitive services from which this banked revenue increase arose in the first place. It is rather self-evident that if the Company has any of these services declared "competitive" and substantially deregulated, the banked revenues associated with such services cannot be recovered from the remaining non-competitive services of Verizon North since that would constitute an unlawful subsidization of competitive services by its non-competitive services. 66 Pa.C.S. § 3016(f).

For these reasons, I concur in part and dissent in part.

[Pa.B. Doc. No. 06-693. Filed for public inspection April 21, 2006, 9:00 a.m.]

STATE EMPLOYEES' RETIREMENT BOARD

Hearing Scheduled

The following hearing has been scheduled, as authorized by 71 Pa.C.S. Part XXV (relating to State Employees' Retirement Code), in connection with the State Employees' Retirement System's denial of Claimant's request concerning the indicated account.

The hearing will be held before a hearing examiner at the State Employees' Retirement System, 30 North Third Street, Fifth Floor, Harrisburg, PA 17101:

May 16, 2006 John G. Timulak (D) 1 p.m.
(Death Benefit)

Parties may appear with or without counsel and offer relevant testimony or evidence to support their respective positions. The hearings will be held in accordance with the requirements of 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law). Under 4 Pa. Code § 250.1 (relating to applicability of general rules), procedural matters will be in conformance with 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure) unless specific exemption is granted.

ERIC HENRY,
Secretary

[Pa.B. Doc. No. 06-694. Filed for public inspection April 21, 2006, 9:00 a.m.]

STATE CONTRACTS INFORMATION

DEPARTMENT OF GENERAL SERVICES

Act 266 of 1982 provides for the payment of interest penalties on certain invoices of "qualified small business concerns". The penalties apply to invoices for goods or services when payments are not made by the required payment date or within a 15 day grace period thereafter.


Act 1984-196 redefined a "qualified small business concern" as any independently owned and operated, for-profit business concern employing 100 or fewer employees. See 4 Pa. Code § 2.32. The business must include the following statement on every invoice submitted to the Commonwealth: "(name of business) is a qualified small business concern as defined in 4 Pa. Code 2.32."

A business is eligible for payments when the required payment is the latest of:
 The payment date specified in the contract.
 30 days after the later of the receipt of a proper invoice or receipt of goods or services.
 The net payment date stated on the business' invoice.

A 15-day grace period after the required payment date is provided to the Commonwealth by the Act.

For more information: contact: Small Business Resource Center
 PA Department of Community and Economic Development
 374 Forum Building
 Harrisburg, PA 17120
 800-280-3801 or (717) 783-5700

Reader's Guide



26

Legal Services & Consultation

① Service Code Identification Number

② Commodity/Supply or Contract Identification No.

B-54137. Consultant to provide three 2-day training sessions, covering the principles, concepts, and techniques of performance appraisal and standard setting with emphasis on performance and accountability, with a knowledge of State Government constraints.

Department:	General Services			
Location:	Harrisburg, Pa.			
Duration:	12/1/93-12/30/93			
Contact:	Procurement Division			
	787-0000			

③ Contract Information

④ Department

⑤ Location

⑥ Duration

⑦

(For Commodities: Contact:
 Vendor Services Section
 717-787-2199 or 717-787-4705

REQUIRED DATA DESCRIPTIONS

- ① Service Code Identification Number: There are currently 39 state service and contractual codes. See description of legend.
- ② Commodity/Supply or Contract Identification No.: When given, number should be referenced when inquiring of contract of Purchase Requisition. If more than one number is given, each number represents an additional contract.
- ③ Contract Information: Additional information for bid preparation may be obtained through the departmental contracting official.
- ④ Department: State Department or Agency initiating request for advertisement.
- ⑤ Location: Area where contract performance will be executed.
- ⑥ Duration: Time estimate for performance and/or execution of contract.
- ⑦ Contact: (For services) State Department or Agency where vendor inquiries are to be made.

(For commodities) Vendor Services Section (717) 787-2199 or (717) 787-4705

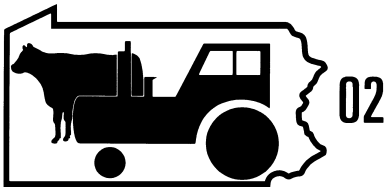
DO BUSINESS WITH STATE AGENCIES

The Treasury Department's Bureau of Contracts and Public Records can help you do business with state government agencies. The bureau is, by law, the central repository for all state contracts over \$5,000. Contract Specialists can supply you with descriptions of contracts, names of previous bidders, pricing breakdowns and other information. They can also direct you to the appropriate person and agency looking for your product or service. Copies of state contracts are also available. (Duplicating and mailing costs may apply). For more information, visit us online at www.patreaury.org.

Contact: **Bureau of Contracts and Public Records**
 Pennsylvania Treasury Department
 201 Finance Building
 Harrisburg, PA 17120
 Phone: (717) 787-2990 or 1-800-252-4700
 Fax: (717) 772-0977

ROBERT P. CASEY, Jr.,
State Treasurer

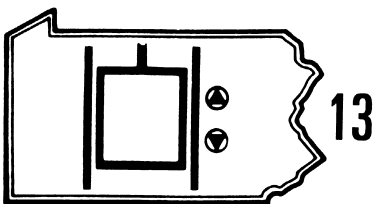
SERVICES



Agricultural Services

CN00020155 Contractor to provide ground application of herbicide at specifically designated locations in forested areas of Pennsylvania with a 20 percent gradient or more (steep). Contractor to provide the herbicide. The Department will reimburse contractor for the actual cost of herbicide applied to each spray block based upon the invoiced cost to the contractor from the herbicide supplier. The awarded contractor must furnish the Department with a performance bond in the form of a surety bond or letter of credit in the amount of \$5,000.00 (Estimated acres: 459).

Department: Conservation and Natural Resources
Location: Clinton, Tioga and Lycoming Counties
Duration: Commence July 1, 2006, and terminate March 31, 2007. Parties may renew for 2 additional consecutive annual terms with final termination date of March 31, 2009.
Contact: Nancy Weibley, 717-783-4884



Elevator Maintenance

8975 Furnish all labor, materials and equipment to provide complete service and a preventive maintenance program for one (1) Schindler passenger elevator. Service shall include monthly scheduled preventive maintenance and servicing on the unit including all necessary additional service calls that are required.

Department: State Police
Location: Troop J, Lancaster Headquarters, 2099 Lincoln Highway East, Lancaster, PA 17602
Duration: July 1, 2006 through June 30, 2009
Contact: Helen Fuhrman, 717-705-5952

FM 8976 Furnish all labor, materials and equipment to provide a complete service and preventive maintenance program for a (1) one passenger elevator. Services shall include monthly scheduled preventive maintenance and servicing on the unit including all necessary additional service calls that are required. For Bid inquiries please contact Helen Fuhrman listed below.

Department: State Police
Location: Troop G, Hollidaysburg, 1510 N. Juniata Street, Hollidaysburg, PA 16628
Duration: July 1, 2006 through June 30, 2009
Contact: Helen Fuhrman, 717-705-5952

SU-05-25 Elevator Maintenance. Shippensburg University is seeking contractors interested in providing a proposal for full elevator maintenance for residence halls. Contractors interested in obtaining a proposal package should fax request to 717-477-4004, Attn: Deborah K. Martin, Shippensburg University, 1871 Old Main Drive, Shippensburg, PA 17257 or e-mail request to DKMART@ship.edu.

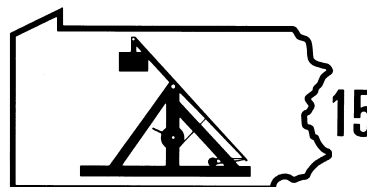
Department: State System of Higher Education
Location: Shippensburg University, Shippensburg, PA
Duration: One year with 4 one year renewals, not to exceed a total of 5 years.
Contact: Deborah K. Martin, 717-477-1121

SU-05-25 A1 Elevator Maintenance. Shippensburg University is seeking contractors interested in providing a proposal for full elevator maintenance for residence halls. Contractors interested in obtaining a proposal package should fax request to 717-477-4004, Attn: Deborah K. Martin, Shippensburg University, 1871 Old Main Drive, Shippensburg, PA 17257 or e-mail request to DKMART@ship.edu.

Department: State System of Higher Education
Location: Shippensburg University, Shippensburg, PA
Duration: One year with 4 one year renewals, not to exceed a total of 5 years.
Contact: Deborah K. Martin, 717-477-1121

CN0020175 Repair and maintenance of three elevators. Details of service available upon request.

Department: Military Affairs
Location: Southwestern Veterans Center, 7060 Highland Dr., Pittsburgh, PA 15206
Duration: Two years tentative dates are 07/01/2006 to 06/30/2008
Contact: Ken Wilson, 412-665-6727



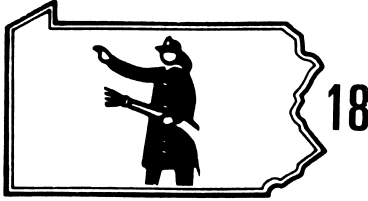
Environmental Maintenance Service

040506 Service to remove all sludge settlement from two settling bed lagoons located at the State Correctional Institution at Camp Hill.

Department: Corrections
Location: State Correctional Institution, 2500 Lisburn Road, Camp Hill, PA 17001
Duration: 07/01/2006 through 06/30/2007
Contact: Donna Veigle, 717-975-5214

CN00020160 The Department of Environmental Protection (DEP), District Mining Operations (DMO) requires a consultant to prepare formal reports and work proposals, conduct necessary work and perform evaluations of sites.

Department: Environmental Protection
Location: District Mining Operations, California District Office, 25 Technology Drive, Coal Center, PA 15423
Duration: Through 6/30/06, with option to renew
Contact: Dave Stillions, 717-783-8551



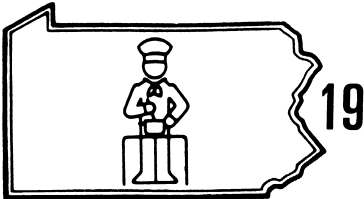
Firefighting Services

CN00020147 The Department of Conservation and Natural Resources, Bureau of Forestry, Forest District No. 9, requires rental of Aircraft and Pilots for forest fire prevention, detection, fire fighting, and other uses as required by the District Forester, Forest District No. 9, including Forest Pest Management work, at Moshannon State Forest, 3372 State Park Road, Pennfield, PA 15849-1722. Interested vendors must be registered with the Commonwealth and have a registered vendor number. To register and obtain number, call 1-866-775-2868 or online at www.vendorregistration.state.pa.us. Opening Date/Time: 04/25/2006 at 2:00 p.m.

Department: Conservation and Natural Resources
Location: Moshannon State Forest, 3372 State Park Road, Pennfield, PA 15849-1722
Duration: Commence upon receipt of Purchase Order and Notice to Proceed letter or July 1, 2006 whichever is later, and terminates June 20, 2009.
Contact: Steven E. Smith, 717-873-1896

CN00020177 The State Correctional Institution at Laurel Highlands will be soliciting bids for Fire Extinguisher Services. The Contractor shall provide all parts, labor and materials necessary to inspect, maintain and hydrotest all fire extinguishers and fire hoses, as needed and requested. Interested vendors must be registered to do business with the Commonwealth of Pennsylvania and should contact the individual listed below for a bid package.

Department: Corrections
Location: State Correctional Institution at Laurel Highlands, 5706 Glades Pike, P.O. Box 631, Somerset, PA 15501-0631
Duration: 7/1/06 through 6/30/07
Contact: Jackie Albright, Purchasing Agent I, (814) 445-6501 X1334



Food

F-300 Vendor will provide foodstuffs including, but not limited to dry and canned goods to the State Correctional Institution at Mahanoy, 301 Morea Road, Schuylkill County, Mahanoy Township, Frackville, PA. Bids and awards to be done weekly, bi-weekly, monthly or quarterly at the discretion of the Agency. Bid Package to be requested in writing to the Purchasing Agent of the Institution.

Department: Corrections
Location: State Correctional Institution at Mahanoy, 301 Morea Road, Frackville, PA 17932
Duration: April 5, 2006 to June 30, 2006
Contact: Ann M. Gavalta, Purchasing, (570) 773-2158

COFFEE-2006 Coffee Concentrate, Beverage: Contract shall cover the months of July 2006 through June 2007. Delivery of product(s) specified shall be made as needed and requested by the Institution. Listing of specific commodities and estimated quantities can be obtained by contacting the institutional contact person.

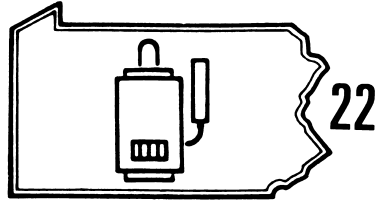
Department: Corrections
Location: State Correctional Institution at Greensburg, RR 10, Route 119 South, Greensburg, PA 15601-8999
Duration: July 1, 2006 to June 30, 2007
Contact: Gena M. Hainesworth, 724-837-4397

MILK BID/SEVC/2006-07 Milk - to be delivered three (3) times weekly during yearly Contract Period.

Department: Military Affairs
Location: Southeastern Veterans' Center, One Veterans' Drive, Spring City, PA 19475
Duration: July 1, 2006 through June 30, 2007
Contact: Patricia M. Urban, PA I, 610/948-2448

CN00020092 This is a non-perishable food bid advertisement for May and June 2006. Fax requests for bid packet to 570-372-5675.

Department: Public Welfare
Location: Selinsgrove Center, 1000 Route 522, Selinsgrove, PA 17870
Duration: See above
Contact: Patti Kreamer, 570-372-5670



HVAC Services

8974 Provide emergency and routine repair work for the heating, air-conditioning, electrical and plumbing systems. Contractor to respond to call within four (4) hours of receipt, either directly or via a recording device. Replacement parts must be as originally installed or of equal quality and function. The contractor must agree to redeem manufacturer's warranty of parts, where applicable, and further agree to guarantee workmanship and replacement parts provided by their firm for ninety (90) days. Materials and parts are to be billed at cost. Remarks: Bidding to be done on labor rate per hour for Mechanic and Helper plus travel.

Department: State Police
Location: PSP Academy, Kennel and BES0, 175 East Hersheypark Drive, Hershey, PA 17003
Duration: July 1, 2006 through June 30, 2009
Contact: Helen Fuhrman, 717-705-5952

8972 Provide emergency and routine repair work for the heating, air-conditioning, electrical and plumbing systems. Contractor to respond to call within four (4) hours of receipt, either directly or via a recording device. Replacement parts must be as originally installed or of equal quality and function. The contractor must agree to redeem manufacturer's warranty of parts, where applicable, and further agree to guarantee workmanship and replacement parts provided by their firm for ninety (90) days. Materials and parts are to be billed at cost. Remarks: Bidding to be done on labor rate per hour for Mechanic and Helper plus travel.

Department: State Police
Location: PSP, Lima Regional Lab, 350 N. Middletown Road, Media, PA 19063
Duration: July 1, 2006 through June 30, 2009
Contact: Helen Fuhrman, 717-705-5952

8973 Provide emergency and routine repair work for the heating, air-conditioning, electrical and plumbing systems. Contractor to respond to call within four (4) hours of receipt, either directly or via a recording device. Replacement parts must be as originally installed or of equal quality and function. The contractor must agree to redeem manufacturer's warranty of parts, where applicable, and further agree to guarantee workmanship and replacement parts provided by their firm for ninety (90) days. Materials and parts are to be billed at cost. Remarks: Bidding to be done on labor rate per hour for Mechanic and Helper plus travel.

Department: State Police
Location: Pennsylvania State Police, 20th and Herr Streets, Harrisburg, PA 17103
Duration: July 1, 2006 through June 30, 2009
Contact: Helen Fuhrman, 717-705-5952

CN 00020075 Provide plumbing service at Roadside Rest Areas along I-80 Monroe County. Sites identified as Site F and Site 41. Shall include the men and equipment to provide service. All requests for a bid proposal shall be requested by close of business 5/5/06.

Department: Transportation
Location: I-80 Monroe County. Sites identified as Site F and Site 41.
Duration: Three (3) year contract with one (2) year renewal (for a possible total of 5 years).
Contact: Mehendra Patel, 610-791-6020

CN00020123 On Call Plumbing Services.

Department: Military Affairs
Location: PA Soldiers' and Sailors' Home, 560 East Third Street, Erie, PA 16507
Duration: 07/01/2006 to 6/30/2009
Contact: Rosemarie Rendulic, 814-878-4930

CN00020076 Provide electrical service at Roadside Rest Areas along I-80 Monroe County. Sites identified as Site F and Site 41. Shall include the men and equipment to provide service. All requests for a bid proposal shall be requested by close of business 5/8/06.

Department: Transportation
Location: I-80 Monroe County. Sites identified as Site F and Site 41.
Duration: Three (3) year contract with one (2) year renewal (for a possible total of 5 years).
Contact: Mehendra Patel, 610-791-6020

W0555-0501 REBID The contractor shall furnish all labor, materials, equipment, tools and supervision to repair the binding problem and degraded grate key replacement for boiler no. 2, at the Boiler Plant of the Hamburg Center, Hamburg, PA. To receive detailed specifications, submit fax request on your company letterhead to Hamburg Center Purchasing Office, Fax: 610/562-6025. All contractors on the previous bid list will receive the rebid.

Department: Public Welfare
Location: Hamburg Center, 3560 Old Route 22, Hamburg, PA 19526
Duration: All specified work must be completed within 180 calendar days from the effective date of the contract.
Contact: Beverly O. Epting, PA, 610/562-6034

CN00020075 Provide plumbing service at Roadside Rest Areas along I-80 Monroe County. Sites identified as Site F and Site 41. Shall include the men and equipment to provide service. All requests for a bid proposal shall be requested by close of business 5/5/06.

Department: Transportation
Location: I-80 Monroe County. Sites identified as Site F and Site 41.
Duration: Three (3) year contract with one (2) year renewal (for a possible total of 5 years).
Contact: Mehendra Patel, 610-791-6020

CN00020070 Service Purchase Contracts needed for Service and Preventative Maintenance of Heating, Ventilation and Air Conditioning of (4) Mobilabs. Service to be provided both at main Laboratory Headquarters and in needed at various locations throughout the Commonwealth where the Mobilabs may be working. Constant Temperature is necessary for Analytical Instrumentation in the Mobilabs to perform correctly and provide accurate data to field personnel at various locations throughout the Commonwealth, and to Emergency Response Personnel in the event of an Emergency Situation. Service to be provided in compliance with attached specification. In addition to repair service the contract is to include a minimum of 2 years preventative maintenance visits to coincide with changes in seasons for heating and cooling each year of the contract. A MANDATORY on site inspection of the Mobilabs is required prior to bidding. Bid Opening Date: April 27, 2006, 2:00 PM.

Department: Environmental Protection
Duration: The contract shall commence upon execution and terminate June 30, 2006. Further, the parties hereto may agree to renew this contract for up to (4) additional consecutive annual terms.
Contact: Dave Stillions, 717-783-8551

0020118 Contractor shall provide service and repairs as needed on an "on call" basis to maintain ALL refrigeration units located at the Gino J Merli Veterans Center. For detailed specifications please send fax request to 570-961-4400 or e-mail Robert J Casey at rcasey@state.pa.us.

Department: Military Affairs
Location: Gino J Merli Veterans Center, 401 Penn Ave., Scranton, PA 18503
Duration: July 1, 2006 through June 30, 2009
Contact: Robert J Casey, 570-961-4317

CN00020137 The State Correctional Institution at Laurel Highlands will be soliciting bids for Refrigeration Service. Refrigeration units to include main dietary fountains, ice machines, walk-in coolers, tray refrigerators, etc., and the main dietary refrigeration system. Interested vendors must be registered to do business with the Commonwealth of PA and should contact the individual listed below for a bid package.

Department: Corrections
Location: State Correctional Institution at Laurel Highlands, 5706 Glades Pike, Somerset, PA 15501
Duration: 7/1/06 through 6/30/07
Contact: Jackie Albright, Purchasing Agent I, (814) 445-6501 X1334



Janitorial Services

FM8962 Furnish all equipment, materials and labor to perform janitorial services three (3) times per week at the Troop listed below. The detailed work schedule and bid specifications will be forwarded upon notification of request for quote from the Facility Management Division.

Department: State Police
Location: Pennsylvania State Police, Troop H, Newport, 52 Red Hill Court, Newport, PA 17074
Duration: July 1, 2006 through June 30, 2009
Contact: Helen Fuhrman, 717-705-5952

FM 8963 Furnish all labor, equipment and materials to perform janitorial services three (3) days per week at the Pennsylvania State Police, Dublin Station. Detailed Work Schedule and Bid must be obtained from the Facility Management Division, 717-705-5951.

Department: State Police
Location: Troop M, Dublin Station, 3218 Rickert Road, Perkasie, PA 18944
Duration: 07/01/06 to 06/30/09
Contact: Sandy Wolfe, 717-705-5951

CN00020085 Provide janitorial, recycling and trash removal services and furnish all materials and equipment required to perform services outlined in Bid CN00020085 specifications. A mandatory office visitation/walk-through will be conducted on May 4, 2006 at 9:30 a.m. at the OAG Philadelphia Essington Avenue office. Contact OAG Facilities Management at 717-787-7830 to confirm attendance at the May 4 office visitation.

Department: Attorney General
Location: 7801 Essington Avenue, Philadelphia, PA 19153
Duration: Two-year Contract beginning July 1, 2006 through June 30, 2008 with 3 one-year options to extend with a pricing increase during the extensions per the North East Consumer Price Index.
Contact: Tammy Gutshall, 717-787-4745

FM8960 Furnish all equipment, materials and labor to perform janitorial services three (3) times per week at the Troop listed below. The detailed work schedule and bid specifications will be forwarded upon notification of request for quote from the Facility Management Division.

Department: State Police
Location: Pennsylvania State Police, Troop G, Bedford Station, 1475 Country Ridge Road, Bedford, PA 15522
Duration: July 1, 2006 through June 30, 2009
Contact: Helen Fuhrman, 717-705-5952

FM8959 Furnish all equipment, materials and labor to perform janitorial services three (3) times per week at the Troop listed below. The detailed work schedule and bid specifications will be forwarded upon notification of request for quote from the Facility Management Division.

Department: State Police
Location: Pennsylvania State Police, Troop G, Lewistown, 34 Arch Rock Road, Mifflintown, PA 17059
Duration: July 1, 2006 through June 30, 2009
Contact: Helen Fuhrman, 717-705-5952

FM8961 Furnish all equipment, materials and labor to perform janitorial services three (3) times per week at the Troop listed below. The detailed work schedule and bid specifications will be forwarded upon notification of request for quote from the Facility Management Division.

Department: State Police
Location: Pennsylvania State Police, Troop H, York, 110 North Street, York, PA 17403
Duration: July 1, 2006 through June 30, 2009
Contact: Helen Fuhrman, 717-705-5952

FM 8965 Furnish all labor, equipment and materials to perform janitorial services two (2) days per week at the Pennsylvania State Police, Lehigh Station. Detailed Work Schedule and Bid must be obtained from the Facility Management Division, 717-705-5951.

Department: State Police
Location: Troop M, Lehigh Station, 5730 Interchange Road, Lehigh, PA 18235
Duration: 07/01/06 to 06/30/09
Contact: Sandy Wolfe, 717-705-5951

FM 8970 Furnish all labor, equipment and materials to perform janitorial services three (3) days per week at the Pennsylvania State Police, Allentown District Enforcement Office. Detailed Work Schedule and Bid must be obtained from the Facility Management Division, 717-705-5951.

Department: State Police
Location: BLCE, Allentown DEO, 8320 Schantz Road, Breinigsville, PA 17031
Duration: 07/01/06 to 06/30/09
Contact: Sandy Wolfe, 717-705-5951



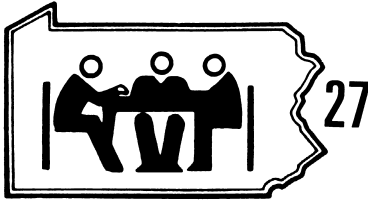
Laboratory Services

Necropsy Lab-1 Modifications to the Necropsy Cooler Floor and Drain. To include removing walk-in cooler floor specific working conditions and environment is made part of this bid by reference.

Department: Agriculture
Location: 2305 North Cameron Street, Harrisburg, PA
Duration: Bid Opening Date is April 28, 2006 at 2:15 PM. All bids must be submitted by that date at 2:00 PM.
Contact: Sheila Strubhar, 717-787-1467

6500-186 Contractor shall provide dental laboratory services as required by the inmate population at the State Correctional Institution at Retreat.

Department: Corrections
Location: State Correctional Institution at Retreat, 660 State Route 11, Hunlock Creek, PA 18621
Duration: July 01, 2006 to June 30, 2007. To include 2 one year renewals.
Contact: Barbara Swiatek, 570-674-2717



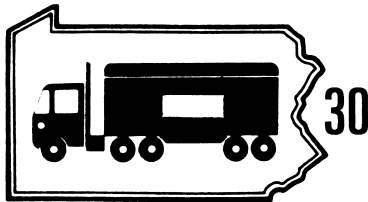
Lodging/Meeting Facilities

CN00020071 The Pennsylvania Emergency Management Agency, an agency representing the Commonwealth of Pennsylvania, intends to conduct a 2006 Regional Counterterrorism Task Force Symposium in the Johnstown - Altoona - State College (Cambria, Centre or Blair Counties) area on August 28-29-30, 2006. The facilities needed for this symposium are up to 250 single lodging rooms on nights of August 28 and 29, large meeting room for 2 days, 7 medium-sized breakout rooms for 2 days, continental breakfast for up to 300 for 2 days, buffet luncheon for up to 300 for 2 days, banquet-style dinner for up to 300 for 1 day, PM refreshment break for up to 300 for 2 days. If you are interested in receiving a bid package, please contact Jill Dimpsey at jdimpsey@state.pa.us; or call (717) 651-2029. Facsimile requests may be submitted to (717) 651-2025. Please include name, title, phone number, fax number, complete company address, Federal ID number and reference CN00020071. Deadline for bid packages will be Tuesday, April 18, 2006. Bid submission deadline is 1 PM on Tuesday, April 25, 2006. You will also need to be registered with SAP, you can register by logging on to www.vendorregistration.state.pa.us.

Department: Pennsylvania Emergency Management Agency
Location: Johnstown - Altoona - State College (Cambria, Centre or Blair Counties) area
Duration: August 28-29-30, 2006
Contact: Jill Dimpsey, 717-651-2029

CN00020134 Provide conference room, audio/visual equipment and lodging for approximately 18 people for approximately 34 nights attending the Office of Attorney General Agent Training Academy to be held May 15, 2006 through June 30, 2006 outlined in Bid #. The use of all lodging, recreation facilities and parking will be utilized by attendees at no additional charge.

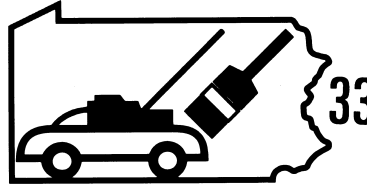
Department: Attorney General
Location: Harrisburg, PA
Duration: May 15, 2006 through June 30, 2006 (7 weeks consecutive)
Contact: Tammy Gutshall, 717-787-4745



Moving Services

CN00019897-1 Department of Public Welfare, Office of Income Maintenance, Northampton County Assistance Office is seeking bidders to provide Moving Services from 110 Main Street, West Easton, PA to two (2) locations. Part 1 of the move MUST occur over a weekend beginning 5:00 p.m. Friday, June 2, 2006 and be completed no later than 5:00 p.m. Sunday, June 4, 2006. Part 2 of the move should occur during normal working hours (8:00 a.m. to 5:00 p.m.) Monday through Friday but MUST be completed within the week of June 5, 2006 and absolutely no later than 5:00 p.m. on Friday June 9, 2006. ALL VENDORS WISHING TO BID MUST PERFORM AND SUBMIT A PROOF OF VISIT FORM AND MUST SUBMIT PROOF OF LIABILITY INSURANCE WITH THEIR BIDS. Prospective vendors must register with the Integrated Enterprise System (IES) at www.vendorregistration.state.pa.us or by calling the toll free number 1-866-775-2868. DPW utilizes the information contained in the vendor master file for its procurement activities. Registered vendors who need to update or change the existing information in this file must contact IES and provide the changes or updates to IES. It is the vendor's responsibility to contact IES for changes, as DPW is unable to change vendor information. If you fail to update or change information, you may not receive requested bid information. Please provide the following information when requesting bids: Name of Vendor, Address, Phone Number, Point of Contact (and their phone number) and Vendor Number. All Bids must arrive prior to the Bid opening date and time to be considered, and become property of the Commonwealth once submitted.

Department: Public Welfare
Location: Northampton CAO, West Easton, PA
Duration: As per project term.
Contact: David E. Kern, 717-783-9281



Property Maintenance

CN00020077 Furnish and Install Decorative Quartz Seamless Epoxy Flooring. Old terrazzo floor to be prepped with a vacuum shot blaster. SITE VISIT IS REQUIRED. Contact Art Posocco at 570-587-7421 for appointment. To request a bid package, send a fax to 570-587-7108 on your company letterhead with name, address, telephone and fax numbers, Federal ID Number and PA State Vendor number. If you do not have a PA State Vendor number, one can be obtained by calling 866-775-2868 or online at www.vendorregistration.state.pa.us/. Bid packages cannot be faxed.

Department: Public Welfare
Location: Clarks Summit State Hospital, 1451 Hillside Drive, Clarks Summit, PA 18411-9505
Duration: April 15 - June 30, 2006.
Contact: Stanley Rygelski, PA, 570-587-7291

CN00020113 This contract is for the Roadside Mowing Services along highways for various State Routes in Montgomery County (Group 6-06-LAM4). Interested vendors should be registered with the Commonwealth of Pennsylvania vendor program prior to receiving a RFQ-Invitation for Bids. To register and obtain a PA vendor program number call 1-866-775-2868 or log onto www.vendorregistration.state.pa.us. After you are registered fax your company name, address, phone/fax numbers and vendor ID number to Steve J. Mueller, Purchaser (610) 275-2368. Bids are scheduled to be opened on Tuesday, April 25, 2006, at the Montgomery County Maintenance Office at 10:00 a.m.

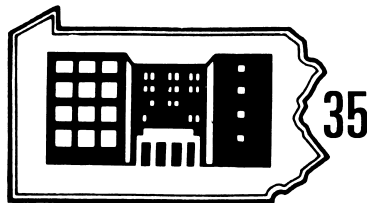
Department: Transportation
Location: PennDOT - District 6-4 Montgomery County, P.O. Box 350, Markley Street and Johnson Highway, Norristown, PA 19401
Duration: Estimated three (3) year contract period with one (1) option to renew for an additional two (2) year period. Approximate start date 6/1/2006 and end date 12/31/2008.
Contact: Steve J. Mueller, 610-275-2368

FM 8977 Furnish all labor, materials and equipment to cut, trim and maintain grass area at the Pennsylvania State Police, Somerset Station, three (3) cuttings per month, or as required by the Station Commander. Detailed Work Schedule and Bid must be obtained from the Facility Management Division at 717-705-5951.

Department: State Police
Location: Troop A, Somerset Station, 142 Sagamore Street, Somerset, PA 15501.
Contact: Sgt. John Rock, 814-445-4104.
Duration: 07/01/06 to 06/30/09
Contact: Sandy Wolfe, 717-705-5951

FM 8978 Furnish all labor, materials and equipment to cut, trim and maintain grass area at the Pennsylvania State Police, Clarion Station, three (3) cuttings per month, or as required by the Station Commander. Detailed Work Schedule and Bid must be obtained from the Facility Management Division at 717-705-5951.

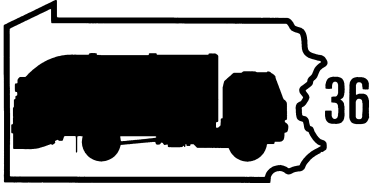
Department: State Police
Location: Troop C, Clarion Station, 209 Commerce Road, Clarion, PA 16214.
Contact: Sgt. Kevin Doverspike, 814-226-1710.
Duration: 07/01/06 to 06/30/09
Contact: Sandy Wolfe, 717-705-5951



Real Estate Services

CN00020179 Rental of Office Trailer approximately 24 feet by 60 feet. To request a bid package e-mail to jamiele@state.pa.us your company name, address, contact person, phone and fax.

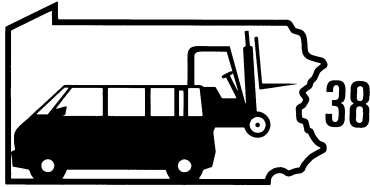
Department: Transportation
Location: 1924 Daisy Street Extension, (Corner of Route 322 and Leonard Street), Clearfield, PA 16830
Duration: Approximately six months to one year with possible option of renewal(s).
Contact: Janis Miele, 814-756-0404



Sanitation

CN00020068 Waste Removal - REBID due to discrepancy on line item 50. One Year with Option to renew for 3 - 1 year renewals.

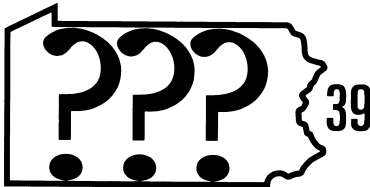
Department: Corrections
Location: SCI Camp Hill, 2500 Lisburn Road, Camp Hill, PA 17001-8837
Duration: Starting July 1, 2006. One Year with Option to renew for 3 - 1 year renewals.
Contact: Selena Runk, 717-975-5267



Vehicle, Heavy Equipment and Powered Machinery Services

CN00020114 Scope of Work - Perform all necessary tasks required to maintain and repair the permanent Post-mounted Variable Message Sign in Northumberland County and the Semi-permanent Variable Message Signs in Columbia, Montour, and Union Counties. BIDS MUST BE RECEIVED AND TIME STAMPED by District 3-0 before 10 a.m. on May 5, 2006.

Department: Transportation
Location: District 3-0, 715 Jordan Ave., Montoursville, PA 17754
Duration: 1 year contract with possible 4-one year renewals by mutual consent
Contact: David Neylon, 570-368-4211



Miscellaneous

INQUIRY #3431 This Agency is seeking the services of a Dental Laboratory to furnish finished oral prosthetic device to the resident population. Complete Specifications are contained upon the Institutional Quote Format.

Department: Corrections
Location: State Regional Correctional Facility, 801 Butler Pike, Rte. 258 South, Mercer, PA 16137
Duration: July 1, 2006 to June 30, 2009
Contact: John Pitonyak, 724/662-1837, Ext. 1009

ADV-277 Indiana University of Pennsylvania (IUP), a member of the Pennsylvania State System of Higher Education, is seeking bids for "Hammermill Bond Writing" Commercial Envelopes (plain - no printing) that must match existing envelopes and letterhead paper to replenish supply in our Central Stores Warehouse. Requests for copy of bid package should be made in writing referencing Advertisement No. ADV-277 and directed to Mrs. Roxie M. Johnson, Purchasing Agent, IUP Purchasing Services, Robertshaw Building, 650 South 13th Street, Indiana, PA 15705; Fax: 724.357.2670; e-mail: Roxie.Johnson@iup.edu. Requests for bid package will be accepted until April 30, 2006, and bid will be mailed out soon after. The University encourages responses from small and disadvantaged, minority and women-owned firms.

Department: State System of Higher Education
Location: Indiana University of Pennsylvania, Indiana, PA 15705
Contact: Mrs. Roxie M. Johnson, 724.357.3077

Router-Switch Infrastructure Standard for Enterprise Router and Switches. This document provides interested suppliers with sufficient information to enable them to prepare and submit written responses for consideration by the Commonwealth of Pennsylvania (Commonwealth or PA) to meet the need for the Router and Switch product standard. Please monitor the DGS Bid Opportunities website for updates. If you are interested in participating, please submit your information to: Daniel Hartzell (dhartzell@state.pa.us), Commonwealth Technology Center, 1 Technology Park - Room 155, Harrisburg, PA 17110-2913 by COB on April 19, 2006.

Department: Office of Administration/Executive Offices
Location: Harrisburg, PA
Duration: FY2005-06
Contact: Daniel Hartzell, 717-772-8029

MI-936 Boyer Roof Replacement: The Project is a roof replacement of approximately 14,060 SF fully adhered single ply EPDM membrane system. Remove and reuse existing counter flashings, provide some new. Remove existing coping on B, C and D Roofs replace with gravel stop and extension. All other coping remains in place. Provide new base flashings, insulation and EPDM single-ply membrane creating a 30-year warranty. General Construction prime.

Department: State System of Higher Education
Location: Millersville University, Boyer Building, 37 W. Frederick Street, Millersville, PA 17551
Duration: Anticipated Start Date: June 5, 2006. Calendar Days - 60.
Contact: Ruth Sheetz, 717-872-3829

RFP 07-06 The Department of Public Welfare, Office of Medical Assistance Programs, Bureau of Program Integrity is seeking proposals to satisfy a need for the services of a consultant to analyze, assess and recommend improvements to the design and operations of Dow's existing fraud and abuse prevention and detection policies, processes and procedures. Prospective vendors must register with the Integrated Enterprise System (IES) at www.vendorregistration.state.pa.us. DPW utilizes the information contained in the vendor master file for its procurement activities. Registered vendors who need to update or change the existing information in this file must contact IES and provide the changes or updates to IES. It is the vendor's responsibility to contact IES for changes, as DPW is unable to change vendor information. If you fail to update or change information, you may not receive requested bid information. Proposals must be received no later than May 16, 2006 at 2 P.M. Please check back often to this site. Updates will be posted as they occur.

Department: Public Welfare
Location: Harrisburg, PA
Duration: 6 months from the effective date with two (2) additional 6 month renewal options.
Contact: Gloria J. Wilbur, 717-214-7529

CN00020111 The Contractor shall provide all labor, repair parts and/or replacement components and equipment necessary to repair institutional Hays/Cleveland controllers, Foxboro transmitters, Baughman water valves, Maxxon gas valves, Lelies pneumatic valves and Honeywell recorders located at the boiler plant of the State Correctional Institution at Cresson. Bid proposal on file in agency purchasing department. Vendors interested in bidding must be registered with the Commonwealth of Pennsylvania and have a vendor SAP number to receive bid proposal.

Department: Corrections
Location: Department of Corrections, State Correctional Institution at Cresson, Old Route 22, Cresson, PA 16630
Duration: July 1, 2006 - June 20, 2007
Contact: Barbara A. Lloyd, Purchasing Agent, 814-886-8181, X166

Trade Events-Markets Soliciting bids for recruitment of PA Agribusiness Companies for various PA Dept. of Agriculture domestic and international trade events from July 1, 2006 to June 30, 2007. All bids are to include all possible expenses: staff salary, support staff salary, travel expenses and miscellaneous costs. Interested Parties must meet all criteria and bid all items.

Department: Agriculture
Location: 2301 North Cameron Street, Harrisburg, PA 17110
Duration: Bid Opening Date April 28, 2006 at 2:15 PM, all bids must be submitted that day at 2:00 PM.
Contact: Sheila Strubhar, 717-787-1467

CN00020139 Optometry Services.

Department: Military Affairs
Location: Pennsylvania Soldiers' and Sailors' Home, 560 East Third Street, Erie, PA 16507
Duration: 07/01/2006 to 6/30/2009
Contact: Rosemarie Rendulic, 814-878-4930

[Pa.B. Doc. No. 06-695. Filed for public inspection April 21, 2006, 9:00 a.m.]

DESCRIPTION OF LEGEND

- | | |
|--|---|
| <p>1 Advertising, Public Relations, Promotional Materials</p> <p>2 Agricultural Services, Livestock, Equipment, Supplies & Repairs: Farming Equipment Rental & Repair, Crop Harvesting & Dusting, Animal Feed, etc.</p> <p>3 Auctioneer Services</p> <p>4 Audio/Video, Telecommunications Services, Equipment Rental & Repair</p> <p>5 Barber/Cosmetology Services & Equipment</p> <p>6 Cartography Services</p> <p>7 Child Care</p> <p>8 Computer Related Services & Equipment Repair: Equipment Rental/Lease, Programming, Data Entry, Payroll Services, Consulting</p> <p>9 Construction & Construction Maintenance: Buildings, Highways, Roads, Asphalt Paving, Bridges, Culverts, Welding, Resurfacing, etc.</p> <p>10 Court Reporting & Stenography Services</p> <p>11 Demolition—Structural Only</p> <p>12 Drafting & Design Services</p> <p>13 Elevator Maintenance</p> <p>14 Engineering Services & Consultation: Geologic, Civil, Mechanical, Electrical, Solar & Surveying</p> <p>15 Environmental Maintenance Services: Well Drilling, Mine Reclamation, Core & Exploratory Drilling, Stream Rehabilitation Projects and Installation Services</p> <p>16 Extermination Services</p> <p>17 Financial & Insurance Consulting & Services</p> <p>18 Firefighting Services</p> <p>19 Food</p> <p>20 Fuel Related Services, Equipment & Maintenance to Include Weighing Station Equipment, Underground & Above Storage Tanks</p> <p>21 Hazardous Material Services: Abatement, Disposal, Removal, Transportation & Consultation</p> | <p>22 Heating, Ventilation, Air Conditioning, Electrical, Plumbing, Refrigeration Services, Equipment Rental & Repair</p> <p>23 Janitorial Services & Supply Rental: Interior</p> <p>24 Laboratory Services, Maintenance & Consulting</p> <p>25 Laundry/Dry Cleaning & Linen/Uniform Rental</p> <p>26 Legal Services & Consultation</p> <p>27 Lodging/Meeting Facilities</p> <p>28 Mailing Services</p> <p>29 Medical Services, Equipment Rental and Repairs & Consultation</p> <p>30 Moving Services</p> <p>31 Personnel, Temporary</p> <p>32 Photography Services (includes aerial)</p> <p>33 Property Maintenance & Renovation—Interior & Exterior: Painting, Restoration, Carpentry Services, Snow Removal, General Landscaping (Mowing, Tree Pruning & Planting, etc.)</p> <p>34 Railroad/Airline Related Services, Equipment & Repair</p> <p>35 Real Estate Services—Appraisals & Rentals</p> <p>36 Sanitation—Non-Hazardous Removal, Disposal & Transportation (Includes Chemical Toilets)</p> <p>37 Security Services & Equipment—Armed Guards, Investigative Services & Security Systems</p> <p>38 Vehicle, Heavy Equipment & Powered Machinery Services, Maintenance, Rental, Repair & Renovation (Includes ADA Improvements)</p> <p>39 Miscellaneous: This category is intended for listing all bids, announcements not applicable to the above categories</p> |
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JAMES P. CREEDON,
Secretary

